42280

### CATHOLICESCHOOLS IN WESTERNIGANADA

THEIR HEGALISTATIOS

DONALD ALEXANDER MACLEAN, M.A. S.LIL, PED

Le CAuthor of the second

THE MORALITY OF THE STRIKE Y

FEORONTO
THE EXTENSION PRINT

. .

# CATHOLIC SCHOOLS IN WESTERN CANADA

### THEIR LEGAL STATUS

DONALD ALEXANDER MACLEAN, M.A., S.T.L., Ph.D.

Author of THE MORALITY OF THE STRIKE



TORONTO
THE EXTENSION PRINT
1923

MHC. FAM, D. A.

**IMPRIMATUR** 

NEIL McNEIL,
Archbishop of Toronto.

April 11, 1923.

Copyright, Canada, 1923. By Donald A. MacLean.

#### FOREWORD

The issue of the introduction of moral and religious instruction and training into the elementary school curriculum has in recent years been given much thought not only by churchmen, but by educationalists, publicists, statesmen and others deeply concerned with the civic and social welfare of their country. Numerous works dealing with various phases of this problem have been written; in fact, this phase of education has perhaps elicited the attention of more writers-than any other. No less an authority and leader in American educational thought than Dr. John J. Tigert, United States Commissioner of Education, in an address delivered during the early part of the present year at the annual convocation of the School of Religion of Howard University, Washington, D.C., deploring the lack of adequate provision for religious and moral training in the public educational system, made a strong plea for their inclusion on the score that education devoid of the religious element was seriously defective and likely to prove a real menace to society. His words are in part as follows:

In its widest connotation education is the result of all the forces which affect the life of man. Taken in this sense, religion is the most universal element in education as well as a very powerful stimulus to human action.

It is not only true that the notion of God exists and has existed in all species of mankind known to us, but it is like-

wise true that the notion has everywhere been a powerful force, operating in the lives of men. In every form of communion with the supernatural, the notion of the Deity has been sufficiently powerful in its influence upon man to move him to make the supreme sacrifice of his own life or the lives of those dearest to him.... There certainly has been no more impelling motive in the life of man than his belief in the Deity.

If education consists in the evolution of the man's inherent capacities of untying "the bundle of possibilities"; if religion be a universal phenomenon among men, and if great thinkers find God indispensable to the explanation of reality, then education which lacks the religious element is certainly seriously defective.

Education which devotes itself entirely to the discovery of knowledge without regard for the will or intention of man is likely to prove the undoing of society. Certainly, it is not

worthy to be called education.

How shall we direct the will and train the heart as we enlighten the intellect? Naught but religious feeling, the inspiration of the soul and faith in God can accomplish this. Even ethical teaching and morality, though helpful, will not suffice.

The necessity of introducing religious teaching into the educational systems of the country is generally admitted. How this can best and most effectively be accomplished is still to many an open question.

While many have been considering the urgent need of introducing into the elementary schools moral and religious instruction and training in some form or other, the attention of others has been directed towards the already existing denominational schools wherein religion and morality form an integral part of the regular educational program. By those whose attitude has been antagonistic the very right of the existence of Catholic schools has been challenged. This antagonism has manifested itself in the very considerable headway made in some few States by the agitation for the legal

control and restriction as well as for even the abolition of Catholic schools. The 1922 Oregon Compulsory Education Law, aimed chiefly at the abolition of Catholic elementary schools, is not only representative of the increasing power of anti-Catholic feeling in some sections, but is also indicative of a growing tendency on the part of the State to take under its control many functions which have long been regarded as pertaining to the sphere of private activity.

The United States Sterling-Towner Bill providing for a Federal Department of Education as well as for the Federal and State subsidizing of schools represents also a well-organized and vigorous effort to bring the matter of education not only under State, but also under Federal jurisdiction. The recent referendum of the United States Chamber of Commerce, which is almost a two-third majority vote, placed itself on record as being opposed both to the establishment of a Federal Department of Education and to the proposal for the joint Federal and State subsidizing of education as provided for in the Sterling-Towner Bill, not only represents their attitude towards the question, but indicates the very wide and general interest manifested towards the question of Federal control of education.

To anyone interested in education, questions such as these are of more than passing interest. For the Canadian Catholic educator and administrator it is of prime importance that he be thoroughly conversant with the legal status of Catholic schools under the provincial educational system as well as with the bearing of the Federal Constitution on the question. For an American student a knowledge of the solution which the problem has received under the Canadian Federal and

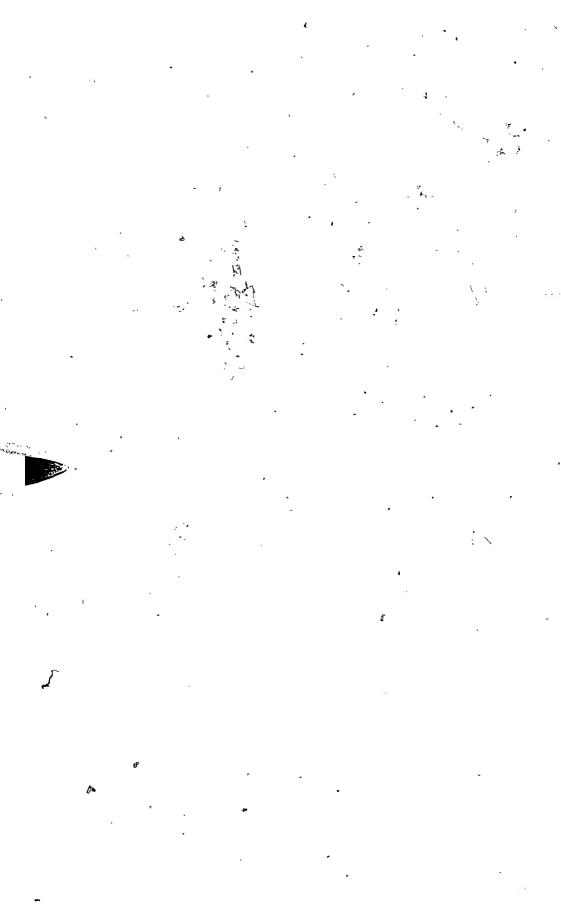
Provincial Constitutions and Legislatures will undoubtedly throw considerable light on many of the phases of the perplexing issue.

Many have feared that with the intrusion of the Federal Government into the educational field Catholic interests might suffer. Be this as it may, a study of the relations of the Canadian Federal Constitution and the Canadian Government to the subject of education reveals the fact that Catholics have had little to fear from that quarter, both operating, wherever they have functioned, to safeguard the sacred rights of Catholics to separate schools.

To those interested in the introduction of moral and religious instruction into the curriculum, a study of the solution given the question by the more recently established Provinces of Canada may offer helpful suggestions, in spite of the limitations and restrictions under which Catholics at present labor in the Provinces of Alberta and Saskatchewan. As these, however, are not of a constitutional character, Catholics may reasonably hope for an extension of the rights and privileges now enjoyed under the protection of the Federal and Provincial Constitutions.

In bringing his task to completion the author wishes to place on record his indebtedness for the assistance afforded him in the preparaton of this work. To the Reverend Dr. P. J. McCormick, Head of the Department of Education, under whose inspiration and guidance the monograph was begun and completed, he feels especially indebted. He also wishes to register his obligations to the Professors of the School of Philosophy under whom he has pursued his studies, to Dr. Johnson, Dr. Ryan, Dr. Pace, Dr. Kirby, Dr.

O'Grady and Rev. Leo McVey; to Dr. Brown, Managing Editor of the Catholic Historical Review, to Dr. Purcell of the Department of American History, and to Rev. A. G. Morice, O.M.I., the eminent pioneer Catholic Historian of Western Canada, for their critical reading of the manuscript: to Miss T. Marion Will for helpful assistance in the reading of the proofs; to the staffs of the Library of Congress, of the United States Bureau of Education, and of the Catholic University for the courtesy shown the author on various occasions: to the Sisters of St. Ann of Victoria, British Columbias for extending to him free access to their museum collection of documents, papers, etc., pertaining to early Catholie education; to Dr. J. Forsyth, Provincial Librarian of the Province of British Columbia, for placing at his disposal the Records of the earliest meetings of the Council and Assembly of Vancouver Island; to the Departments of Education of British Columbia, Alberta and Saskatchewan, for documents and information pertaining to the educational systems of the Provinces; to all, who in any way assisted the author in the preparation of this monograph he desires to express his heartfelt thanks.



### CONTENTS

, n	
FOREWORD	age
TOREWOILD	*
CHAPTER .	
I. INTRODUCTION	1
•	
· ·	
. SECTION I	
VI DIE GAMANAN GONGELENDON AND GERARADA DE	
II. THE CANADIAN CONSTITUTION AND SEPARATE OR DENOMINATIONAL SCHOOLS	_
DENOMINATIONAL SCHOOLS	5
,	
SECTION II	
EDUCATIONAL LEGISLATION AND CATHOLIC SCHOOLS	
IN BRITISH COLUMBIA.	`
<u>'</u>	
III. Earliest Colonial Schools	17
IV. Colonial State Church and Denominational Schools	25
V. Earliest Catholic Missionary and Educational Activities	35
VI. Catholic Schools under Early Colonial Rule	41
VII. Colonial Educational Legislation and Catholic Schools	53
VIII. Catholic Schools and Provincial Legislation	<b>61</b>

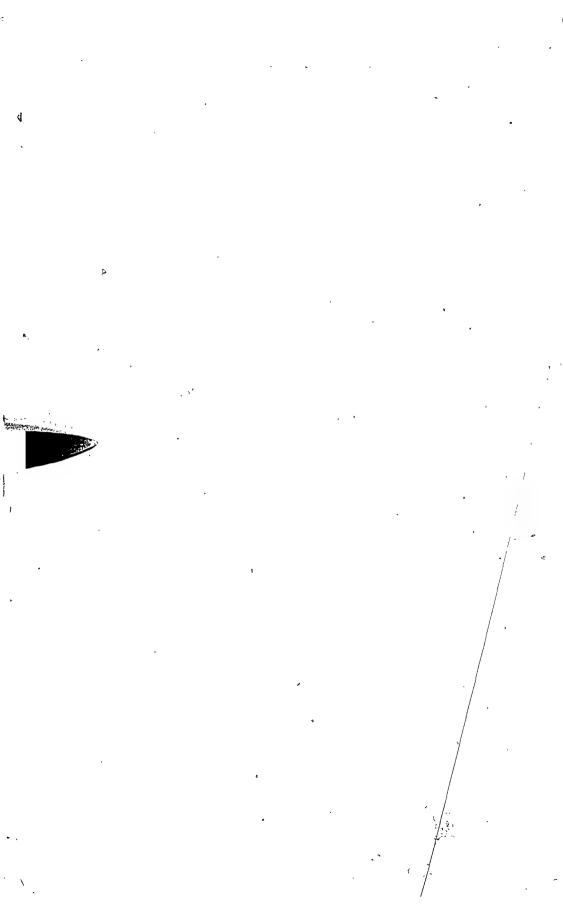
#### SECTION III

# EDUCATIONAL LEGISLATION AND CATHOLIC SCHOOLS IN ALBERTA AND SASKATCHEWAN.

IX.	Catholic Schools Prior to Territorial Rule	71
<b>X</b> .	Catholic Schools and Territorial Educational Legislation	81
XI.	Catholic Schools and the Provincial Constitutions	95
XII.	Catholic Schools and Provincial Legislation in Alberta	111
XIII.	Catholic and Provincial Legislation in Saskatchewan	123
	,	
	SECTION IV.	
XIV	GENERAL SUMMARY	137
xv.	BIBLIOGRAPHY	143
	APPENDIX	153

# CATHOLIC SCHOOLS IN WESTERN CANADA

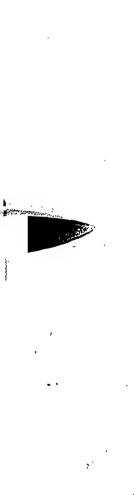
THEIR LEGAL STATUS



#### DEDICATION

િ

To the memory of the pioneer Sisters of St. Ann and Sisters of Charity (Grey Nuns) through whose intense religious zeal and heroic self-sacrifice were solidly laid in Western Canada the early foundations of Catholic education.





¥.

## CATHOLIC SCHOOLS IN WESTERN CANADA THEIR LEGAL STATUS

#### CHAPTER I

#### INTRODUCTION

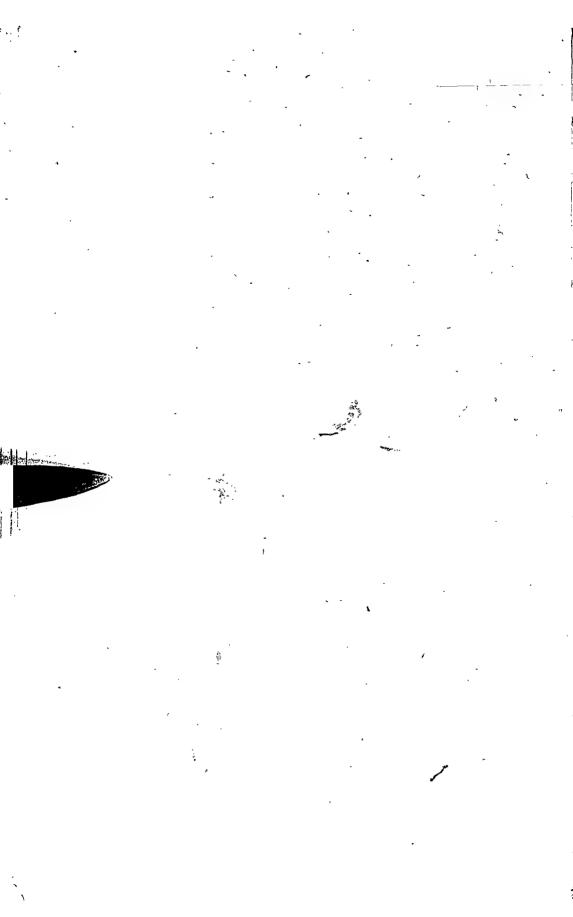
The question of the relation of Catholic schools to the State system, as well as the advisability and practicability of giving religious and moral instruction a place in the regular curriculum of elementary school systems, has challenged the attention of present-day educators and legislators. In Canada, the problem has been a live one for almost a century, the issue being vital in the earlier settled portions of the Dominion even prior to the Confederation. In various Provinces, it has found different solutions. In all but one single Province, provision has been made for the inclusion of religious and moral instruction in the Provincial elementary school, and Catholic schools have been recognized in some way as a part of the regular educational systems.

The purpose of the writer is to investigate the relation of Catholic schools to the various systems of education established and in operation, particularly at the present, in the three more recently settled western Provinces, British Columbia, Alberta and Saskatchewan.

As the Federal Constitution and the Federal Legislature of the Dominion of Canada have played an important part in the matter of determining the legal status of denominational schools within the various Provinces, it will be necessary, as a preliminary requisite for any adequate understanding of the question, to consider both the legal and the historical bearing of the Federal Constitution, known as the British North America Act, 1867, on the subject of Education. As the relation of the Canadian Federal Constitution to the question of Catholic or denominational schools is determined largely by the legal status such schools may have had in the educational system existing even before the Colonies or Territories were organized into Provinces, it will be necessary to consider the early history of Catholic schools and their relation to the other school systems, denominational or otherwise, established within the districts comprised by the three Provinces of Western Canada. Then the present legal status of Catholic schools in each of the Provinces will be set forth, and their claim to continued State recognition determined.

#### SECTION I

THE CANADIAN CONSTITUTION AND SEPARATE OR DENOMINATIONAL SCHOOLS



#### CATHOLIC SCHOOLS IN WESTERN CANADA

#### CHAPTER II

### THE CANADIAN CONSTITUTION AND SEPARATE OR DENOMINATIONAL SCHOOLS

No subject, perhaps, aroused more interest or called forth more contention, when the various issues were being considered by the representatives of the Colonies of British North America in the discussions prior to the institution of the Confederation of the Dominion of Canada in 1867, than the matter of education. When the final steps were being taken in the drafting of the Federal Constitution for the new Dominion, foremost among the momentous problems taxing the wisdom of the Fathers of Confederation, was the question of the satisfactory solution of the school problem for the various Provinces. Like the Ghost of Banquo, it "would not down." On no other of the great Federal issues was there more difference of opinion as to the manner in which the contentious subject should be treated. It was not long, however, before all realized that, to effect anything like a permanent Federal Union, satisfactory constitutional safeguards must guarantee the rights of the religious minorities of the various Colonies to separate or denominational schools. Accordingly, when the Union of the four Provinces of Quebec, Ontario, New Brunswick and Nova Scotia into the Dominion of Canada was effected in 1867 by the Imperial sanction of the British North America Act, the educational issue received,

by the clauses embodied as Section 93 of the Canadian Federal Constitution, what was believed to be a satisfactory and permanent settlement.

The subject of separate schools, for some time previous to Confederation, had been a prolific source of controversy, particularly in Ontario or Upper Canada. The Provinces of Upper and Lower Canada (Quebec) had been united under one Government and Legislature in 1840 by an Act of the Imperial Parliament. In the following year the Legislature of the United Province in The Common School Act had extended the principle of separate schools to Ontario. This enactment "gave to Catholics and Protestants under stated conditions the following rights:

- 1. The right to establish separate schools for their own children.
- 2. The right to appoint teachers of their own faith.
- 3. The right of public moneys for the maintenance of their own schools."

This Act was soon supplanted by the Upper Canada School Act of 1843,<sup>2</sup> which restricted the separate school principle to the dissatisfaction of both Catholics and Protestants. "Bishop Strachan strongly opposed the separate school provisions in the Hinks School Act of 1843. He wished to have Church of England Schools, 'pure and simple.'" Amendments further curtailing the separate school privileges were introduced at various times when efforts were made to reduce, if not abolish, the rights of the Catholic minority, with the result that "there was much heated con-

<sup>&#</sup>x27;McNeil, Most Rev. Neil, "The Catholic Schools of Ontario," The Canadian League, vol. 2, No. 5, August, 1922.

<sup>&</sup>lt;sup>2</sup>Cf. Hodgins, J. G., The Legislation and History of Separate Schools in Upper Canada, p. 26.

<sup>3</sup> Hodgins, op. cit., p. 27.

tention over separate schools in Upper Canada from 1849 to 1863."

A system of separate schools which gave complete liberty and afforded entire satisfaction to the Protestant minority had been in operation in Lower Canada (Quebec) for some time. "The English Protestant minority of Quebec had been conceded their own schools even long before the Act of Union of 1840. At the time of Confederation the English Protestant minority in Quebec possessed a completely independent system of education. They had their own academies, their own normal schools, their own inspectors, their own Committee of the Council of Public Instruction, while at the time of Confederation under the Union the Catholic minority possessed none of these." 5

The Honorable John Rose, representing Montreal Centre, speaking in the Legislative Assembly in 1865, when the question of the educational rights of the minorities was being discussed, bore witness to the generous treatment which had been given even before Confederation to the Protestant minority of Quebec:

"Now, we, the English Protestant minority of Lower Canada, can not forget that whatever right of separate education we have was accorded to us in the most unrestricted way before the Union of the Provinces (1840), when we were in a minority and entirely in the hands of the French population. We cannot forget that in no way was there any attempt to prevent us educating our children in the manner we saw fit and deemed best, and I would be untrue to what is just if I forgot to state that the distribution of state funds for educational purposes was made in such a way as to cause no complaint on the part of the minority." <sup>6</sup>

But although the Protestants of Quebec enjoyed liberal separ-

Porritt, E., Evolution of the Dominion of Canada, p. 243.
O'Hagan, Thomas, "Sacred Rights of Minorities," Canadian Freeman, May 8, 1919.

Ewart, John S., The Manitoba School Question, p. 56.

ate school privileges before Confederation, they were unwilling to leave the matter in the hands of the Legislature of the Province, which was likely to be predominantly Catholic.

Headed by A. T. Galt, Minister of Finance in the Mac-Donald Government, the Protestant minority of Quebec, insistently demanded that their separate school privileges be safeguarded and expressly guaranteed by the new Federal Constitution. Only on these terms would they assent to Confederation, as Sir Charles Tupper, one of the Fathers of the Confederation, speaking in the Federal House in 1896, on the Manitoba School Question, attested:

I say with knowledge, that but for the consent of Mr. Galt, who represented especially the Protestants of Quebec, and but for the assent of that conference to the proposal of Mr. Galt that in the Confederation Act should be embodied a clause which would protect the rights of the minorities, whether Catholic or Protestant, in this country there would have been no Confederation. It is significant that but for the clause protecting minorities the measure of Confederation would not have been accomplished."

The Honorable Alexander McKenzie, another of the great early leaders in Canadian politics, who had formerly been a vigorous opponent of separate schools in Ontario and in the Canadian Legislature, finally convinced that a separate school system was the only solution, supported the measure. Later, he fathered the North-West Territories Act, which embodied the separate school principle as in Quebec. Relative to the New Brunswick school situation in the Dominion House of Commons, on March 10, 1875, he stated:

"For many years after I held a seat in the Parliament of Canada I waged war against the principle of separate schools. I had hoped, young and inexperienced as I then was, to establish a system to which all would ultimately yield their assent. Sir, it was impracticable in operation and

Weir, G. M., Separate School Law in the Prairie Provinces, p. 21.

impossible in political contingencies, and consequently \* when the Quebec Resolutions were adopted in 1864 and 1865, which embodied the principle that should be the law of the land, the Confederation took place under the compact then entered upon. I heartily assented to that proposition and supported it by speech and vote in the Confederation debates." 8

Another of Ontario's bitter opponents of the separate school system was the Liberal leader in the Canadian Legislature. Honorable George Brown. He also finally consented to Section 93 of the Canadian Federal Constitution, saying that he had "not the slightest hesitation in accepting it as a necessary condition of the scheme of Union."9

\_Catholic and Protestant minorities alike found an able champion of their educational rights in the person of the Premier, Sir John A. MacDonald. In 1855, he introduced the Tache Separate School Bill<sup>10</sup> for Upper Canada, into the Legislature of the United Canada, and carried his measure in spite of the bitter opposition of George Brown. His fearless defence actually won Brown's voice for the adoption of the Federal safeguarding constitutional enactment. So when the measure came up in the Legislature for the final vote, "the Assembly was almost unanimous in supporting the separate school clause which was incorporated in the British North America Act, even its former opponents, George Brown and Alexander Mackenzie, defending its adoption."11

A solution which should settle for all time the controversy on the educational rights of religious minorities was thought to be found in this educational clause. Lord · Carnarvon, sponsoring the Confederation Bill before the Imperial Parliament of the British Empire, spoke in debate on the

<sup>8</sup> Dominion of Canada Legislative Debates

9 Ewart, J. S., The Manitoba School Question, p. 52.

10 Pope, Joseph, Memoirs of the Right Honorable Sir John Alexander MacDonald, vol. 1, p. 137; Hodgins, op. cit., p. 94.

<sup>11</sup> Putnam, J., Edgerton Ryerson and Education in Canada, p. 5.

second reading with reference to Section 93 on Education: "The clause has been framed after long and anxious controversy in which all parties have been represented, and on conditions to which all have given their consent, \* \* \* but I am bound to add as to the expression of my opinion that the terms of the agreement appear to me to be equitable and judicious." 12

The solution of the religious educational question was largely a compromise on the part of the two contending religious bodies of Quebec and Ontario. The compromise, which "was so essential that without it Confederation could never have taken place (as Sir Oliver Mowat tells us), provided that the Provinces should have jurisdiction over education, but should in the exercise of that jurisdiction be subject to certain restrictions and limitations for the protection of minorities." This agreement, which Lord Carnarvon characterized as "equitable and judicious," stands today as the Federal background of the Canadian Provincial school systems.

These Constitutional safeguards were intended to guarantee the educational rights and privileges of the religious minorities enjoyed by law prior to Confederation, or granted by any Province after the date of Union. These rights were made secure from violation by subsequent provincial legislation. For any adequate consideration of the separate school problem in Canada and the legal standing of Catholic Schools, it is necessary to understand clearly this Section on Education and its relation to the particular Provincial system in question.

Section 93 of the Canadian Federal Constitution provides that:

In and for each Province the Legislature may exclusively

12 Ewart, The Manitoba School Question, p. 54.

<sup>&</sup>lt;sup>12</sup> February 19, 1867, Hansard, Parliamentary Debates; Ewart, John S., Manitoba School Question, p. 84.

make laws in relation to Education subject and according to the following provisions:

- (1) Nothing in such law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any class of persons have by law in the Province at the Union.
  - (2) All Powers, Privileges and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic subjects in Quebec.
  - (3) Where in any Province a system of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor-General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education.
  - (4) In case any such Provincial Law as from time to time seems to the Governor-General in Council requisite for the due execution of the Provision of this Section is not made, or in case any decision of the Governor-General in Council or any appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every case, and as far only as the circumstances of such case require, the Parliament of Canada may make remedial laws for the due Execution of the Provisions of this Section and of any Decision of the Governor-General in Council under this Section.<sup>14</sup>

Thus, the exclusive right and power, subject to certain restrictions which have a religious bearing, to enact legisla-

<sup>&</sup>quot;British North America Acts, 1\$67-1915.

tion relative to the education and the educational system in any Province is given to the Provincial Legislatures. They alone have the constitutional right to establish a general system of education applicable to the whole Province and to all classes and denominations, provided the legal rights and privileges of any class of persons are duly safeguarded.

Sub-section 1 of Section 93 does not debar the Provincial Legislatures from legislating on all matters pertaining to separate or denominational schools. The prohibition bears only on the rights and privileges of the religious minorities of a particular Province, and only on such legislation as injuriously affects such rights as are had "by law" at the thme of Union or are afterwards obtained by Provincial enactment. The Provincial Legislature may, in the words of Judge Patterson of the Supreme Court of Canada, "without prejudicially affecting denominational rights," legislate on such as "compulsory attendance of scholars, the sanitary condition of school houses, the imposition and collection of school rates for the support of denominational schools and sundry other matters which may be dealt with without interfering with denominational characteristics school." 15 Nor does this sub-section 1 specify in detail how far and to what extent any provincial Legislature may pass educational enagtments without violation of religious rights and privileges. A learned commentator has written. "It devolves upon the courts to decide in any one case, whether or not any provincial legislation concerning denominational schools does or does not prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union." 16

Sub-section 2 concerns directly only the Provinces of Quebec and Ontario, yet it was intended by the framers of

Supreme Court of Canada Reports, "Manitoba Case," p. 374;
 Lefroy, Canadian Constitutional Law, p. 146
 Clement, W. H. P., The Law of the Canadian Constitution, p. 320.

the Constitution to apply in conjunction with the other subsections, indirectly at least, to the Provinces of New Brunswick and Nova Scotia, where it was supposed that a like system of separate schools would be established; as is evident from the statement of Lord Carnarvon when presenting the provisions of the Bill to the British House of Lords:

"Your Lordships will observe some rather complicated arrangements in reference to education. \* \* \* The object of the clause is to secure to the religious minority of one Province the same rights and privileges and protection which the religious minority of another Province may enjoy. The Roman Catholic minority of Upper Canada, the Protestant minority of the Province of Quebec, and the Roman Catholic minority of the Maritime Provinces, will thus stand on a footing of entire equality. But in the event of any wrong at the hands of the local majority, the minority have a right to appeal to the Governor-General in Council, and may claim the application of any remedial laws that may be necessary from the central Parliament of the Confederation." 17

Yet the intention of the legislators was not fully included in the wording of the law, for in the case of New Brunswick, although Catholic schools had a stronger claim to legal recognition than in any of the other Maritime Provinces, on appeal to the Privy Council, it was decided that, under Section 93, "no such right or privilege existed there." Therefore, this Section would seem in reality to have very little bearing on the Catholic separate school issue in the other Canadian Provinces.

Sub-sections 3 and 4 were added to provide for the effective safe-guarding of the educational rights and privileges of religious minorities, when such rights and privileges are enjoyed "by law" either before or after the Union, against future invasions by "any provincial authority." They con-

<sup>&</sup>quot;British House of Lords Debates, February 19, 1867; Ewart, op. cit., p. 84.

<sup>18</sup> Wheeler, Confederation Law, pp. 362-7.

stitute an additional substantive enactment to sub-section 1, which has reference only to such "denominational schools" as might have a legal existence in a Province at the time of the Union. Sub-section 3 provides for the possibility of an appeal in relation to "education" and not merely "with respect to denominational schools." This right of appeal exists, however, only where the right or privilege affected is that of "the Protestant or Roman Catholic minority." The last sub-section (4) provides for remedial legislation on the part of the Dominion Parliament in case of the failure on the part of the Provincial Legislature to enact the necessary legislation in the event of an appeal by a religious minority being sustained by the Courts of the Realm.

The functions of the Governor-General in Council not being of a judicial character, the appeal provided for under sub-section 4 does not confer on the Governor-General in Council the power to decide on the constitutionality of provincial enactments affecting the educational rights or privileges of any religious minority, or as to whether or not the "proper - provincial authority" has duly executed a "decision" provided for by this sub-section. According to the great constitutional authority Clement, such decisions lie within the province of the regular tribunals. "The appeal provided for would seem to be limited to the supervising or suggesting alterations in provincial enactments affecting any right or privilege of the Protestant or Roman Catholic minority in a Province with respect to education. event of the ruling decision, or whatever it may be called, of the Federal Executive not being duly executed by the properprovincial authorities, the provisions of sub-section 4 may be invoked." 19

Before sub-section 3 or 4 may be invoked, as a condition precedent to any right of interference with enactments,

<sup>&</sup>lt;sup>19</sup> Clement, The Law of the Canadian Constitution, pp. 323, 324.

valid provincial legislation must exist which affects some right or privilege enjoyed by the Protestant or Roman Catholic minority of the Province under a pre-Confederation or post-Confederation law. Here it is not a question of legislation "prejudicially affecting a right or privilege with respect to denominational schools." Such legislation would be ultra vires, and it would be the function of the courts to render a decision to that effect. An appeal demanding interference on the part of the Dominion authorities can only be sustained in connection with valid provincial educational legislation which affects "some right or privilege of the Protestant or Roman Catholic minority." provincial legislation, although valid, might be unjust, clumsy or unworkable, and under this clause the Federal Parliament has the right and power to pass any such "remedial legislation" as the circumstances of the case may require.

But in this case, as in any other that might come up for settlement under Section 93 of the Federal Constitution, the duty of the Governor-General in Council would be to issue a remedial order to the Provincial Legislature in question. Should this order not be carried out by the provincial authorities, resort may then be had, but only "in so far as the circumstances of such case require," to the enactment of remedial legislation by the Legislature of the Dominion of Canada.

Thus, in the Manitoba School Case, the Privy Council in 1892 decided in favor of the validity of the Manitoba legislation of 1890, abolishing separate schools, inasmuch as "no right or privilege, which the Catholics of Manitoba had at Union, is violated or prejudicially affected by the law." However, in 1895, the same Court held that where "the sole question to be determined is whether a right or privilege which the Roman Catholic minority previously enjoyed has been affected by the legislation of 1890, their

Lordships are unable to see how this question can receive any answer but an affirmative." They consequently decided in this case that the Dominion Parliament has power "to legislate upon matters of education in so far as was necessary to protect the Protestant or Catholic minority as the case may be." 20

<sup>20</sup> Brophy vs. Attorney General of Manitoba, 1895, A.C. pp. 219, 220.

### SECTION II

EDUCATIONAL LEGISLATION AND CATHOLIC SCHOOLS IN BRITISH COLUMBIA.



. .

٠..

#### CHAPTER III

#### EARLIEST COLONIAL SCHOOLS

The political rule of the Hudson's Bay Company in the far West terminated in the year 1849, when Vancouver Island and New Caledonia, as most of the mainland of British Columbia was then called, became Crown Colonies, ruled over by representatives of the British Government. At that time, few white settlers were to be found in the two Colonies, so the Imperial Government, anxious to make her claim and position more secure, determined on a policy of colonization. This work was entrusted to the Hudson's Bay Company. In a charter dated January 13, 1849, the exclusive right to the fur trade with the Indians of this region was granted to this Company. In return for this monopoly the Company agreed to establish on Vancouver Island, within five years, a colony of British subjects. The Company, shortly after the agreement, issued a circular dealing with the matter of colonization, in which is to be found reference to a contemplated establishment of schools within the confines of British Columbia.

<sup>&</sup>lt;sup>1</sup> Begg, Alexander, History of British Columbia, pp. 185, 186.

The prospectus set forth the conditions of colonization on Vancouver Island, and among the inducements held out to prospective settlers were the following:

- 6th \* \* \* And as it is essential to the well-being of society that the means of religious instruction should be within the reach of every member of the community, provision will be made for the establishment of places of worship, and for the maintenance of ministers of religion according to a plan, of which the following is the outline:
- (1) The land is to be divided into districts of from five to ten square miles where it is practicable.
- (2) A portion of land equal to one-eighth of the quantity sold to be set aside for the minister of religion. Thus, in a district of ten square miles, containing 6,400 acres, supposing 5,120 acres sold, the minister would be entitled to 640 acres, and the remaining 640 acres would be available for roads, site for church and churchyard, schools or other public purposes; the land so reserved or its proceeds to be appropriated for these purposes in such a manner as may appear advisable.
- (3) With a view of enabling the ministers to bring their land into cultivation, a free passage to be granted to such a number of persons as a settler having an equal quantity of land would be required to take out, the cost to be paid out of the fund held in trust for the colony.
- (4) The several apportionments for the purposes of religion to be conveyed to and to be held by the Governor-in-Council in trust for the parties appointed to perform the clerical duties of the respective districts.<sup>2</sup>

From this and subsequent documents, it is clear that the officials of the Company contemplated the establishment of a state-endowed church, and that the schools were to be closely identified with the established church, that is, sectarian or denominational schools.

Following the organization of Vancouver Island as a

<sup>&</sup>lt;sup>2</sup> Begg, A. op. cit., p. 187.

Crown Colony, an effort was made by the Hudson's Bay Company to provide educational facilities for the children of its employees and for those of the few other settlers located in the district surrounding Victoria. In 1849, the Company brought out to Victoria Rev. Robert J. Staines, who was guaranteed three hundred and forty pounds a year for keeping a boarding school and two hundred pounds as chaplain.<sup>3</sup> A rude building, provided by the Company within the Fort, "which served as residence, school and church, was occupied by Mr. and Mrs. Staines and the boarding school for young ladies." <sup>4</sup>

How far Rev. Mr. Staines succeeded in caring for the educational needs of the colony of Vancouver Island may be judged from a report to the Company dated October 8, 1851, by the Chief Factor shortly before his appointment as Governor of the Colony:

I will also take the liberty of calling the attention of the Governor and Committee to the subject of Education by recommending the establishment of one or two elementary schools in the Colony to give a proper moral and religious training to the children of settlers who are at present growing up in ignorance and the utter neglect of all their duties to God and to society. That remark applies with peculiar force to the children of Protestant parents; the Roman Catholic families in this country having had until lately a very able and zealous teacher in the Rev. Mr. Lamffrit, a French priest of the society des Oblats, who is now living in the Cowichan Valley. One school in Victoria and another at Esquimalt will provide for the present wants of the settlements, and a fixed salary of fifty pounds a year to be paid by the Colony with an annual payment by the parents of a certain sum not to exceed thirty shillings for each child is the plan and amount of remuneration I would propose to the Committee. In regard to the character of the teachers,

Short and Doughty, Canada and Its Provinces, Archives Edition, vol. 22, p. 401.

<sup>\*</sup>Forsyth, J., "Early Colonial Schools on Vancouver Island," Victoria Daily Times, March 11, 1922.

I would venture to recommend a middle-aged married couple for each school, of strictly unblemished character, capable of giving a good sound English education and nothing more, these schools being intended for the children of the laboring and poorer classes, and children of promising talents, or whom their parents may wish to educate further, may pursue their studies and acquire the other branches of knowledge at the Company's school conducted by the Rev. Mr. Staines. I would also recommend that a good supply of school books from the alphabet upwards, with slates and pencils, be sent out with the teachers, as there are very few in this country.

Rev. Mr. Staines did not long continue to hold the office of teacher and chaplain for the Hudson's Bay Company. According to a report of Mr. Roderick Finlayson, one of the officials of the Company at Victoria, "Mr. Staines became much dissatisfied with things, with Douglas and his administration as Governor of the Colony." In 1853, he left for England to lay his grievance and that of the settlers before the Imperial Government, and for the next two years the school was closed and the Company was without a Chaplain. Mr. Staines never reached England, the ship on which he sailed having been lost on the voyage.

After the resignation of Governor Blanchard, the first Governor of the Colony, who held office but a short time, being forced to resign on account of the intolerable opposition manifested towards him by the officers of the Hudson's Bay Company, Chief Factor Douglas secured the appointment. This left the Hudson's Bay Company in almost complete control of the Colony. From 1861 to 1859 Douglas, holding the two offices of Chief Factor and Governor, was practically dictator. The little administration necessary was, until after the establishment of the first Legislative Assembly in 1856, carried on by Douglas and his Council.

<sup>\*</sup>Report of Chief Factor Douglas to Archibald Barclay, Secretary Hudson's Bay Company, London.

\*Canada and Its Provinces, vol. 22, p. 402.

The actual business transacted during these years is faithfully recorded in the old minute and correspondence books of the Council, preserved in the Provincial Archives at Victoria. The first meeting of the Council of Vancouver Island was held on August 30, 1851, shortly after the appointment of James Douglas as Governor. From these records, it is evident that the subject of education attracted considerable of the Council's attention. On March 31, 1853, it was decided to erect two schools, at Victoria and at Maple Point, near the Puget Sound Company's establishment. This latter was afterwards known as Craigflower school. The sum of five hundred pounds was appropriated "for the erection of a school-house at Victoria, to contain a dwelling for the teacher, school-rooms and several bed-rooms." 8

These old records show that the earliest colonial school<sup>9</sup> in British Columbia was established at Victoria and that it was in operation as early as the end of 1853. On October 21, 1853, the Eggislative Council dealt with accounts for the construction of the Victoria district school amounting to 469 pounds, 11 shillings, 2 pence, and the minutes show that at this time Mr. Robert Barr, a teacher, was residing on the premises with thirty-three pupils enrolled. The second, or Craigflower school, was not opened before 1855, for on December 20, 1854, it was officially reported by Governor Douglas that the school-house for Mr. Clarke, the

These minute books, edited by Mr. E. O. S. Scholefield, Provincial Librarian and Archivist, were published in 1918 as Memoirs, Nos. II., III., and IV. of the Provincial Archives of British Columbia.

<sup>&</sup>quot;It would seem that even prior to this "in the spring of 1852, Governor Douglas had opened a day school for boys and appointed Charles Bailey master . . . The day school was attended by eighteen boys." This, however, was not a colonial school, the teacher's salary being met by fees of one pound annually per child, "in addition to wages and provisions from the company." (Forsyth, "Early Colonial Schools on Vancouver Island," op. cit, part I.). Prior to the opening of the first colonial school this company school ceased to exist.

English school-master coming out on the Princess Royal, would not be ready for another month.

A third colonial school was established at Nanaimo about the same time, as the records of February, 1857, note the appointment of Cornelius Bryant to succeed Mr. Bailley, who has been "appointed first school-master at Nanaimo school," 10

These schools, it should be observed, were not free schools though aided by the Legislative Council. In addition to their annual salary and board allowance paid out of the colonial treasury, the district school teachers were authorized to charge the following rates for board and tuition:

For the children of Colonists, residents of Vancouver Island, and of servants of the Hudson's Bay Company, 18 guineas per annum.

"For the children of non-residents not being servants of the Hudson's Bay Company, any sum that may be agreed upon with the parties." 11

Provision was also made for day scholars attending district schools to pay the following tuition:

"Five shillings per quarter or twenty shillings per annum for the following instruction, viz.-Reading, English, grammar, writing, geography, arithmetic, and industrial training." 12

When instruction in additional or higher branches of learning was required extra fees were charged, the rate arranged between the Governor and the school-master.

Efforts were being made to provide a select school for the children of the Company's officers. In 1854, the Hudson's Bay Company secured a second Colonial chaplain in the person of Rev. Edward Cridge, who with Mrs. Cridge

<sup>10</sup> Forsyth, op. cit.; Jessop, J., Finst Annual Report on the Public Schools in the Province of British Columbia, 1872, p. 2.

"Memoir No. II., B.C. Provincial Archives, p. 23.

"Memoir No. IV., p. 33.

arrived in Victoria on April 1, 1855. For his services as clergyman and chaplain, he was to receive, besides a parsonage and one hundred acres of land, an annual salary of four hundred pounds. To this was to be added rations for himself and his family until the land should be put by the Company in proper state for cultivation. In addition to his ordinary duties, he was to take charge of a superior class boarding school, and for this purpose was required to bring a school-master and his wife. For the support of such a school, the Company agreed to contribute one hundred pounds annually. As Mr. Cridge failed to bring out the school-master as agreed upon, "Mrs. Cridge opened a private school for the children of the Hudson's Bay Company officials, 13 similar to one previously conducted by the late minister's wife."

The minutes of the Legislative Council for the year 1853 give evidence of "applications having been made from various districts of the country for schools." However, during the ten years succeeding the opening of these first colonial schools, nothing further was done to provide the additional educational facilities necessary for the residents of the two Colonies of Vancouver Island and British Columbia. It would even appear that the few colonial schools operating were not giving satisfaction, for by a resolution of the Legislative Council of February 27, 1856, the Rev. E. Cridge was "appointed a Member of the Committee for enquiring into and reporting upon the state of the Public Schools." 15

15 Memoir No. II, p. 28.

<sup>&</sup>lt;sup>12</sup> Short and Doughty, op. cit., vol. 22, p. 403.

<sup>14</sup> Minutes of the Legislative Council, March 29, 1853, Memoir No. II., p. 79.



#### CHAPTER IV

## COLONIAL STATE CHURCH AND DEÑOMINATIONAL SCHOOLS

These early colonial schools were actually sectarian institutions under the control of the Church of England, which Governor Douglas would make the State Church. Even before their establishment, the Governor made his object clear that the schools were intended "to give a proper moral and religious training to the children of settlers." And when the first begislature of the Colony of Vancouver Island met, August 12, 1856, Douglas in his inaugural address urged the support of public worship and education at the public charge. "The demands upon the public revenue," he stated, "will at present chiefly arise from the improvement of the internal communications of the country, and providing for the education of the young, the erection of places for public worship, the defence of the country and the administration of justice." 17

Religion and the study of the scriptures formed an important part of the school program. In his report on the Craigflower school, November 27, 1856, Rev. Mr. Cridge stated: "The examination in scripture was inadvertently omitted till too late on the day of public examination, but I had examined the school previously in this subject, in which I did not find that the children had made the same improve-

<sup>16</sup> Report of Chief Factor Douglas to Archivald Barclay, Secretary Hudson's Bay Company, London. op. cit.

ment as in some others." 18 The report drawn up on August 27, 1861, by Mr. Cridge for submission to the Governor pictures religious instruction or scriptures as the principal subject studied. Out of an annual enrollment of 90 pupils at the Victoria, Craigflower, and Nanaimo schools, with 82 as an average attendance, 78 are listed as studying scriptures, with only 49 pursuing the studies of reading, writing and arithmetic; and 28, grammar, geography and history.19

The same report showed the emoluments received by the teachers during the previous year to be 150 pounds salary paid out of the colonial treasury to each of the teachers of the three schools, besides "fees from pupils, 73 pounds, 9 shillings, 6 pence, and voluntary contributions, 9 pounds, 3 shillings." The schools were at this time "in an imperfect and elementary state \* \* chiefly from the insufficient supply of teaching power." 20 The cost of the colonial chaplaincy and the schools of the State Church, soon became a source of dissatisfaction to the settlers. In the Colony of Vancouver Island, "in 1855 the total public expenditures reached the sum of 4,107 pounds, 2 shillings, 3 pence," out of which the amount expended "on the church, chaplain, and parsonage at Victoria was 1,362 pounds, 17 shillings, 5 pence." In the previous year the minutes of the Council for July 12th show an appropriation of 500 pounds "towards finishing the Church." 22

Such a tax on the limited financial resources of the young Colony, as was occasioned by the attempted establishment of a State Church, aroused public protest; and this abortive attempt exerted considerable influence in determining the

<sup>&</sup>lt;sup>18</sup> Forsyth, op. cit. March 20, 1922.

Short and Doughty, op. cit., pp. 404, 406.
 Op. cit., pp. 406, 407.

<sup>&</sup>quot; Coats and Gosnell, The Makers of Canada, vol. 20, p. 216.

<sup>&</sup>quot; Memoir No. II., p. 24.

É

non-sectarian character of the systems of education later established in British Columbia.

Dissatisfaction became general finally in the year 1859 when the renewal of the agreement between Rev. E. Cridge and the Hudson's Bay Company was under discussion in the Assembly. Governor Douglas submitted the following report. which it may be well to give at length:

I have to submit for your consideration, with the Sanction of Her Majesty's principal Secretary of State for the Colonies, the copy of a communication from the Rev. E. Cridge, Colonial Chaplain of Vancouver Island, tendering a continuance of his services in that capacity; and I have to request that the House will favor me with their opinion on the subject. 10th Sept., 1859, James Douglas:

Memorandum of Salary, Allowance, etc., for a Clergyman for Vancouver Island. The Hudson's Bay Company are desirous of sending out a clergyman to Vancouver Island to be stationed in the vicinity of Victoria, the principal establishment in the Island. He will have charge of a district or parish, and, in addition, will hold the appointment of chaplain of the Hudson's Bay Company, and will attend to the principal wants of the free settlers, and of the officers, clerks, and servants of the Hudson's Bay Company stationed at Victoria, and at the various farms in the neighborhood.

The church is in progress of construction, in the vicinity of the fort, and will probably be completed by the time the. clergyman may be expected to arrive on the Island. Hudson's Bay Company propose that the remuneration for these services shall consist, first, of a parsonage and glebe of one hundred acres, of which thirty acres will be cleared and put in a cultivable state; secondly, of a stipend of 300 pounds per annum charged, with the sanction of the Colonial Office, on the fund arising from the sales of land—of which funds the Company are trustees, etc.; thirdly, of an allowance of 100 pounds per annum from the fur branch of the Company, for acting as Chaplain to the Company and attending to the wants of the servants.

Until the house is finished, quarters will be provided for the clergyman in the fort. And till the land is put in the proper shape for cultivation, rations will be allowed to him and his family, as provided for the officers of the Company. When the land is taken possession of by him, he will be expected to provide for himself.

The Company think-it very desirable that the clergyman should, as is done at Red River by the Bishop of Rupert's Land, take charge of a boarding-school, of a superior class, for the children of their officers, and would wish that he would take out with him a gentleman and his wife capable of keeping a school of this nature.

The fur-trade branch would find a school-house and residence for the master and his family, and will vote an annual grant of 100 pounds in aid of the school. Should they give satisfaction to the gentlemen in the country, they might expect from thirty to forty-pupils, and the usual payment for each pupil would be 20 pounds per annum for board, lodging and education.

A free passage will be allowed from London to Vancouver Island to the elergyman, his family and servants, and also to the school-master and his family.

It is understood that the engagement shall be for five years, at the expiration of which a free passage home will be granted, should the clergyman wish to return; or, on the contrary, a fresh engagement may be entered into. It is also to be understood that in the event of misconduct, the engagement may at any time be cancelled, on the recommendation of the Governor of Vancouver Island, and with the sanction of the Secretary of State for the Colonies. (Signed) A. Colville, Governor, Hudson's Bay House (London), Aug. 12th, 1854.

I hereby accept the terms and conditions as specified in the foregoing memorandum, September 13th, 1854. (Signed) Edward Cridge.

In discussion, the speaker of the House, Dr. J. Helmcken, maintained that the appointment of Rev. Mr. Cridge was a permanent one, and that he was entitled to a renewal of the agreement with continuance of salary from the Colonial Government. The Assembly thereupon resolved that:

This House is of opinion that by the memorandum of agreement dated 12th August, 1854, the Rev. Mr. Cridge was evidently led to expect a renewal of his agreement on

6

faithful service; but the House would recommend the propriety of deferring the consideration of State and Church connection until the House is enlarged, and the sentiments of the people can be better understood.

The attention of the bublic was thus directed to the , attempted establishment of a State Church; the question was considered by Rev. W. F. Clark, a missionary of the Congregational Church, in a letter to the British Colonist of Victoria, in which attention was drawn to the startling fact that there already exists in the young Colonies, an embryo State Church. This letter is in part as follows:

The arrangements recently made public, by which threefourths of the salary of the Rey. E. Cridge is made a charge on the public funds, would be sufficient to show that we have the germ of this evil fully formed in our midst. But from the returns to the Imperial Parliament, just received, it appears that a Clergy Reserve of 2,118 acres of land has been set apart in Victoria district alone. Similar reservations, for aught we know, may have been made in other districts.

The returns just alluded to also show that the Bishop of Columbia, shortly to arrive, together with the Rev. Messrs. Gammage and Crickmer, come here not merely as missionaries of the Episcopalian body, in which capacity they deserve to be cordially welcomed, but also as appointees of the Gov. ernment. Their names appear in the same list as those of the Governor, Chief Justice, Attorney-General, etc., as belonging to the staff of Government officials for the sister colony. The list is headed: "Appointments, etc., Created by Her Majesty's Government." There can be little doubt but that either Clergy Reserves have been made in British Columbia, or that the making of them will be one of the earliest steps to be taken after his Lordship's arrival.

Now, sir, permit me respectfully to ask my fellow subjects if they are content that Church endowments should be made in these young regions at the rate of two thousand acres of land per district? And are they prepared for the struggling, jealousy and unseemly strife that must ensue if the incubus of a State Church is laid upon us? If not, let protest and petition be resorted to, that this threatened evil may, if possible, be averted.

The strong trend of public opinion against the establishment of a State Church soon manifested itself in both Colonies. In a reply to Mr. Clark's letter, Mr. A. D. Pringle, of Fort Hope, on the Mainland, endeavored a defence by maintaining that "the salaries of the clergymen are not chargeable to British Columbia, although their appointments were authorized by the Government." The untenableness of such a claim was made manifest by the editor of the British Colonist, Mr. De Cosmos, who published the despatch of Governor Douglas dated December 14, 1858 V "I propose building a small church and parsonage, a court house and jail, immediately, at Langley, and to defray the expense out of the proceeds arising from the sale of town lands there." 24

In view of the strong expressions of public sentiment, it soon became evident to Governor Douglas and the authorities of the Church of England that their cherished project of a State-endowed Church in Vancouver Island and British Columbia would have to be relinquished.

The Clergy Reserves<sup>25</sup> proposals were therefore abandoned and when Mr. Hills, the first Anglican Bishop of the new Colonies, arrived at Victoria, in January, 1860, the grant of land was reduced to thirty acres, which was transferred under trustees to the Church. Mr. Cridge was placed by Bishop Hills in charge of the Victoria district, and thus terminated his colonial appointment.

The report of Mr. Cridge of 1861 shows that, with the withdrawal of colonial support from the Church of England, two private schools were opened in Victoria under the supervision of Bishop Hills. These were the Collegiate school for boys, conducted in the same manner as grammar schools in

Begg, op. cit., pp. 330, 331.
 Begg, History of British Columbia, p. 331.

<sup>25</sup> Coats and Gosnell, op. cit., pp. 273, 274.

England and designed to qualify for the learned professions. commercial and mercantile pursuits and for the universities, and Angela College for young ladies.26 Religious instruction formed an important part of the regular curriculum. institutions were supported largely from fees paid by the pupils, which, as in the case of the salaries of Bishop Hills and Rev. Mr. Cridge, was supplemented out of the missionary funds from England.

A third school, under the auspices of Bishop Hills, was opened on February 15, 1863, at Esquimalt. A site was donated to the Bishop "on condition that a building be erected within three months for a church and for educational purposes, the property to revert to the donors in case it was not so employed." 27 This was one of the first, if not the first, of the free schools established in the Colonies. In 1865 the attendance numbered fourteen boys and six girls. ligious instruction, in this as in the other schools, formed a very important part of the daily program.

On the mainland of British Columbia, including the Colony of New Caledonia, although Hudson's Bay Company forts had been established by the famous Catholic explorer, Simon Fraser, as early as 1805-1809, development proceeded less rapidly than in the Island Colony. Outside the Company's forts practically no white settlements were established before the "gold rush of '58." As a consequence the development of schools did not begin as early as on the Island.

Governor Douglas, whose jurisdiction extended over both Colonies, made an extended tour in 1859 through the Mainland, submitting to London a lengthy report.28 In this report

cit., April 7, 1922; Short and Doughty, op. cit.,

Morice, A. G., History of the Northern Interior of British Colmbia, cc. 4, 5; Begg, op. cit., c. 9.

we find that "the entire white population of British Columbia does not probably exceed 6,000 men, there being with the exception of a few families, neither wives nor children." He states, furthermore, that "no schools have as yet been established in the Colony; but my attention will be given to the subject of education and provision made for elementary schools whenever the wants of the country render them necessary.'' 29

Although, according to the British Columbian of October, 1864, "the public had for three years past been anxiously waiting for some sort of a school system," yet very little was done in the matter of education previous to the organization of British Columbia as one of the Canadian Provinces. Previous to Confederation there really existed no governmental system of schools. Some little financial assistance, however, was given to a few denominational schools, operating within the Mainland Colony. The first financial assistance was rendered in the year 1864. In that year Governor Seymour, in response to an appeal from a committee in charge, made a grant<sup>30</sup> of one hundred pounds towards the-support of a school which "in 1862, the Rev. Robert Jamieson, a minister of the Presbyterian Church, opened at New Westminster." 31 In recommending an "appropriation for education and religious purposes," Governor Seymour added "a disclaimer of any desire to see an endowed church in the colony." 32 The attendance at this school for the year 1864 numbered only sixteen. A "fee of two and one-half dollars per month for each pupil" was charged, which proved a very unsatisfactory system. As John Robson wrote to the Governor,

<sup>29</sup> Report of Governor Douglas to the Duke of Newcastle, London, dated October 18, 1859.

Begg, op. cit., p. 326.
 Short and Doughty, op. cit., vol. 22, p. 411.

<sup>&</sup>lt;sup>52</sup> Coats and Gosnell, op. cit., p. 296.

"such a tax fell very heavily upon families having a number of children attending school and placed education entirely beyond the reach of some." 33

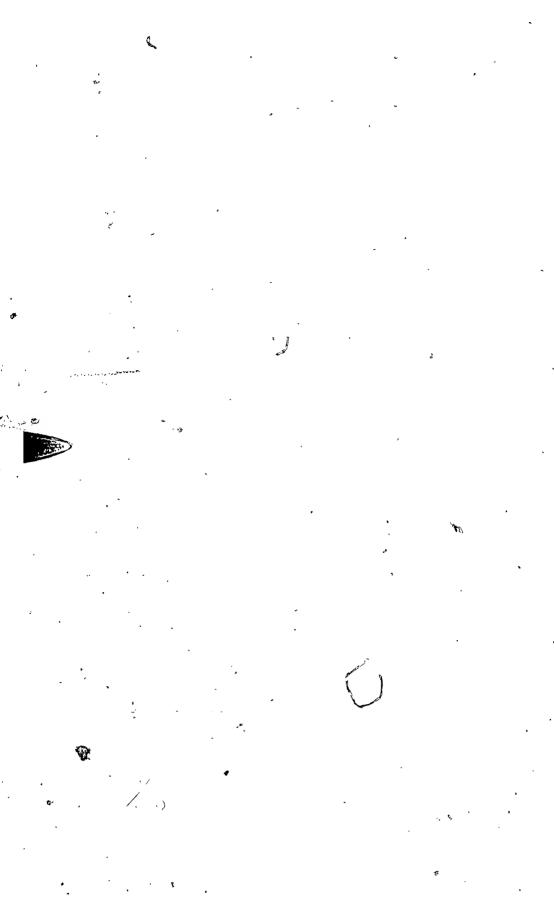
Demands for the establishment of a colonial system of education were made to the Governor from various sections of the colony. The Governor refused to accede to the demands, but "in October, 1864, he notified the trustees" of the New Westminster school "that he would sanction the payment of four shillings per month to the master for each child regularly attending the school, whose parents paid six shillings a month \* \* \* In November, 1864, Yale and Douglas were offered schools on the same terms as those enjoyed by the New Westminster school, but they did not accept the offer." 34

This arrangement not proving satisfactory, Governor Seymour was forced to increase this educational grant. Supply Bill for 1864 shows a grant for education for the Mainland of 500 pounds; that for 1865, 1,000 pounds; and that for 1866, the year of the introduction of decimal currency and the year of the union of British Columbia and Vancouver Island, the sum of \$5,000." After the Union, little was done to provide the necessary educational facilities until the establishment of a regular school systeem under Provincial rule.

British Columbia, July 2, 1864.

<sup>34</sup> Short and Doughty, op. cit.; pp. 412, 413.

<sup>35</sup> Short and Doughty, op. cit., p. 413.



#### CHAPTER V.

# EARLIEST CATHOLIC MISSIONARY AND EDUCATIONAL ACTIVITIES

While various unsatisfactory and unsuccessful attempts were being made, during the early years of colonial rule, to establish a public school system, the education of the Catholic youth of the Colony was being attended to in a very satisfactory manner by the Catholic schools. In British Columbia as in other parts of Canada church schools were the pioneers in the field, and to the Catholic missionaries especially credit must be given for the part played by them, from the very outset, in the work of providing for the educational wants of the young Colonies.

To Bishop Demers, "the Apostle of British Columbia," belongs largely the credit of organizing the first Catholic school system in that part of British North America west of the Rockies. Following the establishment of the See, he was, on November 30, 1847, consecrated as the first Bishop of British Columbia. The distinction also falls on him of being the first priest to celebrate Mass on the mainland of British Columbia, on October 14, 1838, at the Big Bend on the Upper Columbia River.

From the year 1838 till the consecration as Bishop his

<sup>&</sup>lt;sup>1</sup> Morice, A. G., History of the Catholic Church in Western Canada, vol. 2, p. 297.

<sup>2</sup> Blanchet, F. N., Historical Sketches of the Catholic Church in

<sup>&</sup>lt;sup>2</sup> Blanchet, F. N., Historical Sketches of the Catholic Church in Oregon, p. 30; Morice, op. cit., p. 282.

missionary activities were conducted mainly in the north-western part of the Oregon Territory, settled largely by French-Canadians and half-breeds, and at that time regarded as British territory. He had, however, during the summer of 1841, visited Fort Langley, on the lower Fraser, and spent considerable time in evangelizing the savage tribes in the surrounding districts. In the succeeding years he carried his missionary activities far into the northern interior of British Columbia, visiting among other places Kamloops, Fort Alexander, and Fort St. James, the capital of New Caledonia.

This was long before an attempt had been made by any of the Protestant denominations to undertake missionary work among the natives; for, as a Protestant writer, R. N. Mayne, stated: "Before 1857 no Protestant missionary had ever traversed the wilds of British Columbia, nor had any attempt been made to instruct the Indians. At Victoria the Hudson's Bay Company had a chaplain stationed, but he was devoted entirely to the white settlers. I must except the exertions of the Roman Catholic priests." 3

Among these first missionary efforts are to be found the beginnings, though they are primitive, of Catholic educational activities in the Province of British Columbia. When in response to petitions of the French-Canadian Catholics residing north of the Columbia River to Bishop Provencher, of St. Boniface, begging that priests might be sent to minister to the spiritual needs of that district, the Reverend Modeste Demers and the Reverend Francis Norbet Blanchet were appointed "missionaries for that part of the Diocese of Quebec which is situated between the Pacific Ocean and the Rocky Mountains," they were given by their Bishop the following letter:

<sup>\*</sup>Journal of Commander R. N. Mayne—Four Years in British Columbia and Vancouver Island, p. 356.

Instructions given to Very Rev. Francis Norbert Blanchet and Rev. Modeste Demers, appointed Missionaries for that part of the Diocese of Quebec which is situated between the Pacific Ocean and the Rocky Mountains.

April 17th, 1838.

My Rev. Fathers:,

You must consider as the first object of your Mission to withdraw from barbarity and the disorders which it produces, the Indians scattered in that country.

Your second object is to tender your services to the wicked Christians who have a tender there the vices of Indians, and live in licentiousness and the forgetfulness of their duties.

Persuaded that the preaching of the Gospel is the surest means of obtaining these happy results, you will lose no opportunity of inculcating its principles and maxims, either in your private conversations or public instructions.

In order to make yourselves sooner useful to the natives of the country where you are sent, you will apply yourselves, as soon as you arrive, to the study of the Indian languages and will endeavor to reduce them to regular principles, so as to be able to publish a grammar after some years of residence there.

You will prepare for baptism, with all possible expedition, the fidel women who live in concubinage with Christians. in oder to substitute lawful marriages for these irregular unions.

You will take particular care of the Christian education of children, establishing for that purpose, as much as your means will allow, schools and catechism classes in all the villages which you will have occasion to visit.

In all the places remarkable either for their position or the passage of the voyagers, or the gathering of Indians, you will plant more crosses, so as to take possession of those various places in the name of the Catholic religion.

Given at Quebec on the 17th day of April, 1838.

Joseph Signay, Bishop of 'Quebec.4

Following the instructions of the Bishop of Quebec the

Blanchet, F. N., Historical Sketches of the Catholic Church in Oregon, pp. 26, 27.

missionaries set about immediately preparing themselves for the work of instructing the natives and, as we learn from a letter of Father Demers to the secretary of the Bishop of Quebec, dated March 1, 1839, he soon succeeded in mastering the Chinook language.<sup>5</sup> This dialect consists of a jargon of badly pronounced French, English and various native words, with terms from the real Chinook for a background. This curious mixture was then, and remains to our day, the regular means of communication between the whites and Indians, as well as between heterogeneous tribes on the Pacific, practically from California to Alaska. So in compiling a dictionary and grammar for the study of the language, he rendered an invaluable service for the education of natives and half-breeds of British Columbia. Shortly afterwards he compiled a catechism in the same language; also prayers and hymns.6

This work and the famous pictorial catechism, or chart, of Father Blanchet played a very important part in the civilizing and Christianizing of the British Columbia natives. Of the chart, the Reverend Mathew Macfie, one of the earliest Protestant historians of British Columbia, writing in the year 1865, speaks in the following terms: "I was much interested in being shown, by Bishop De Mers, a rude symbolic Bible devised by himself for the use of the Indian disciples of the Roman Catholic order. It consists of a long slip of paper, on which the principal events narrated in

<sup>&</sup>lt;sup>5</sup> Morice, History of the Catholic Church in Western Canada, vol. 2, p. 340.

<sup>&</sup>lt;sup>6</sup> A copy of a later edition of the work in the Congressional Library collection at Washington, D.C., bears on its title page the inscription: The Missionary's Companion on the Pacific Coast. Chinook Dictionary, Catechism, Prayers and Hymns Composed in 1838 and 1839 by Rt. Rev. Modeste Demers.

<sup>&#</sup>x27;Macfie is mistaken as to the author of the chart. That Father Blanchet and not Father Demers was its ingenious inventor is evident from a passage in the *Historical Sketches of the Catholic Church in Oregon*, by Blanchet, pp. 84, 85. Moreover, the chart bears the name of Father Blanchet as its author.

Scripture, from the creation of the world to the founding of the Christian Church, are illustrated. The progressive development of the Church of Rome from that time to the present is also portrayed. The advantage of the arrangement is that a large amount of general religious information is contained in a remarkably small compass."

Most historians give but scanty, if any, credit to the pioneer Catholic missionaries for the heroic part played by them in the exploration and colonization of the vast reaches of Western Canada, and the bringing to these far distant and almost inaccessible regions the fruits of civilization, education and religion. When Factor Douglas undertook the task of transferring the headquarters of the Hudson's Bay Company from Vancouver, in the Oregon Territory, to Vancouver Island and establishing the first fort there, he was accompanied by the Catholic missionary, Father J. B. Z. Bolduc—the first priest (since the departure of the Spanish) Missionaries about fifty years previous) to set foot on the Island. When on March 15, 1843, after several days' delay. owing to the warlike appearance of the natives, "Douglas landed. Father Bolduc accompanied him to where the savages had congregated up the channel. There, it is recorded by the historian, 'the priest was immediately embraced by six hundred souls, which number swelled to twelve hundred before his departure. Men, women and children all must touch the hem of his garment." "9 The presence of the Catholic priest, of whom the natives had heard through their intercourse with the mainland tribes, at once disarmed the opposition of the savages and made the establishment of the Company's fort on Vancouver Island an easy task for Douglas.

Striking testimony to the powerful civilizing influences of the early Catholic missionaries on the savage tribes, which to

<sup>\*</sup> Vancouver Island and British Columbia, p. 208.

<sup>\*</sup>Begg, Alexander, History of British Columbia, pp. 157, 158.

a considerable extent made colonization possible, is borne by one whose association with the beginnings of Western Canada, as well as on account of his religion, makes his statement of unquestionable value. In an autograph note to Chief Factor McDonald's Journal of Sir George Simpson's famous voyage through the North-West to the Pacific, Malcolm McLeod, a gentleman whose life was spent in the service of the Hudson's Bay Company, shows his appreciation of the civilizing influence of the early Catholic missionaries in the following statement:

While many of the Company, who spent their lives in the service of the Indians, have given freely of their gold to the missionary cause, it is no doubt to the noble zeal and effective teaching of the Catholic clergy, ever welcome at every port as brothers of the Cross in a common cause, that the civilization of the North American Indian is due. I am a Protestant as my father was, but we can bear no other testimony on this point. The priest and the trader have, in this case, gone hand in hand, and commerce has in truth, in this instance, been the handmaid to religion.<sup>10</sup>

While the Hudson's Bay Company officials could not fail to recognize the powerful influence wielded by the Catholic missionaries on the native and half-breed races, which, up to within a few decades, made up the great bulk of the population of Western Canada, still "most of the financial aid granted to the missions by the Hudson's Bay Company went to the co-religionists of the Majority of its officers." In British Columbia, particularly, very little assistance was rendered to the Catholic missionaries in carrying on their missionary and educational activities.

<sup>&</sup>lt;sup>10</sup> MacDonald, Chief Factor Archibald, Peace River: A Canoe Voyage from Hudson's Bay to the Pacific, p. 64.

<sup>&</sup>quot;Morice, Rev. A. G., History of the Northern Interior of British ('olumbia, p. 224.

#### CHAPTER VI

### CATHOLIC SCHOOLS UNDER EARLY COLONIAL RULE

On November 30, 1847, four years after the establishment of the first of the forts of the Hudson's Bay Company on Vancouver Island at Camousum (afterwards changed to Victoria), and two years before Vancouver Island and the Mainland of British Columbia had been placed under Colonial rule, Bishop Demers was consecrated as the first Bishop of the whole of territory west of the Rockies now comprised within the confines of the Province of British Columbia, but without a solitary priest at his disposal.1 Even "by the end of 1853 he had as yet neither home nor even a modest chapel to use as a cathedral." He therefore betook himself, shortly after his consecration, to Eastern Canada and to Europe for the. purpose of securing financial assistance to carry on the work of the frontier diocese.

Travelling was slow and the revolution in France delayed the execution of his plans, so it was not until September, 1851, that Bishop Demers returned from Europe to take possession of his See. He brought with him three priests and

<sup>&#</sup>x27;In his Historical Sketches of the Eatholic Church in Oregon.
Archbishop Blanchet, at whose hands Bishop Demers received his episcopal consecration, tells us that the Bishop of Vancouver Island had not even one priest to accompany him to Victoria."

'Morice, History of the Catholic Church in Western Canada, vol.

II., p. 282.

a subdeacon, all of whom were destined to play an important role in early missionary activities.

During the absence of Bishop Demers the spiritual interests of his diocese were not entirely neglected, for "from 1849 to the beginning of 1852 it seems that a French Oblate, Father H. Lemfrit, of Olympia, resided chiefly at Victoria." He endeavored to provide for the spiritual needs of the district, and to him, apparently, credit is rightly due for having opened the first Catholic school in the confines of British Columbia.

There are no public records extant of the establishment of a Catholic school at this period nor of the establishment of any other Catholic school in British Columbia before the opening of St. Ann's Academy in 1858, neither is there to be found any reference to the existence of such in any of the historical works, Catholic or non-Catholic, which touch on the establishment of the earliest schools in the Colonies of the Pacific Coast. Few, in fact, of the non-Catholic writers make mention of St. Ann's Academy or of St. Louis College, Victoria, both of which institutions, from the year 1858 to the present, have occupied such an important place in the educational life of British Columbia. These two institutions, Catholic as well as non-Catholic writers credit with being the first Catholic schools established in British Columbia. It appears, however, that at least two Catholic schools had been in operation in Victoria some years previous to the arrival of the Sisters of St. Ann.

Evidence for the existence of what is probably the first Catholic school in British Columbia is to be found in one of Douglas' Reports to the Secretary of the Hudson's Bay





<sup>&</sup>lt;sup>3</sup> Hopkins, Castell, Canada, an Encyclopedia, vol. 2, p. 510. Father Lampfrit (not Lemfrit) arrived in Victoria early in the month of March, 1849, for in the Historical Sketches of Archbishop Blanchet, p. 179, we read, "On March 9th, 1849, Father Lampfrit is sent to Victoria during the absence of Bishop Demers."

Company, London. In a communication dated October 8, 1851, Douglas strongly recommends the establishment of two elementary schools in the Colony of Vancouver Island "to give a proper-moral and religious training to the children of the settlers who are at present growing up in ignorance and the utter neglect of all their duties to God and to society. That remark applies (says Douglas) with peculiar force to the children of the Protestant parents; the Roman Catholic families in this country having had until lately a very able and zealous teacher in the Rev. Mr. Lamfrit, a French priest of the Society des Oblats, who is now living with the Indians in the Cowichan Valley."

Governor Douglas' letter thus proves conclusively that there existed in Victoria a Catholic school at least two years previous to the establishment of the first colonial school in British Columbia, although the exact date of its opening is However, as Father Lamfrit "had lived nine months in the midst of the Cowichan tribe, and had taken his departure therefrom prior to the bishop coming to take possession of his See \* \* .\* on September 5, 1851," 5 the school must have been actually in operation as early as the year 1850, possibly as early as the year 1849, for the arrival of Father Lamfrit in Victoria dates back to March of that year. Whether to this school or to the one conducted by Mrs. Staines for the Hudson's Bay Company is due the honor of being actually the first school opened in British Columbia is uncertain. This much is evident that, within a year after the establishment of Vancouver Island as a British Colony and fifteen years before the passing of the first colonial legislation on education, there existed in the Colony a Catholic school. As to the nature of the work done in the school the

<sup>&#</sup>x27;Report to Archibald Barclay, Secretary of the Hudson's Bay Company, London, England."

Morice, History of the Catholic Church in Western Canada, vol. 2, p. 298.

only evidence available is the statement of Governor Douglas, which bears ample testimony to the high-grade character of its teacher.

Before the return of Bishop Demers from Europe in 1851, with the transference of Father Lamfrit to Cowichan, apparently the Catholic school in Victoria ceased to exist. ever, as the old minute book of the Colonial Councils shows, a second Catholic school was opened some time before the end of 1856. On February 27, 1856, the Legislative Council of the Colony appointed a committee to report upon the state of the public schools in the Colony, of which Rev. Mr. Cridge, the Colonial chaplain, was a member. In his report to the Council, he mentions a newly established Catholic school then in operation in Victoria. In his statement on the Victoria colonial school, dated November 20, 1856, he states that "two boys have been removed and placed at the Roman · Catholic School lately established at Victoria." His report on Craigflower School also indicates the existence of a Catholic school in Victoria at this date. In it Mr. Cridge states, "In answer to the inquiry as to how many children had been removed during the past year, the master informs me that one boy, a Canadian, was removed to the new Roman Catholic school at Victoria."6

In order to further the intellectual and religious welfare of his flock, Bishop Demers published a paper in 1856, the first journal in the Colony.<sup>7</sup> He was forced to suspend its

<sup>&</sup>lt;sup>6</sup> Forsyth, "Early Colonial Schools on Vancouver Island," Victoria Daily Times, March 27, 1922.

<sup>&</sup>quot;Victoria Daily Colonist," July 21, 1907; "Its existence, however, was short lived... when two years later Mr. De Cosmos gave birth to the British Colonist, he printed the first and many succeeding numbers of the paper on the type and the antiquated hand-press that Bishop Demers had brought from France." This press is now to be seen in the museum of St. Ann's Academy, Victoria, B.C. The first paper to appear on the mainland, "the New Westminster Times, commenced publication in September, 1859." Begg. op cit., p. 333.

publication in the following year, when he undertook a journey to Eastern Canada in order to secure religious teachers to care for the instruction of the children of his diocese. These consisted mostly of natives and half-breeds. As yet the total white population of the whole of British Columbia was but small, probably not over a thousand in all. Yet, notwith-standing the small white population in the colonies, he took early steps to provide for the permanent care of the education of his flock.

On his return from the East in the following year, he brought with him two priests, "Fathers Rondeault and Vary, Brothers Michaud and Thibaudeau, C.S.V., candidates for the priesthood, four Sisters of St. Ann, Sisters Mary of the Sacred Heart, Mary Angele, Mary Lumina, and Mary Conception, with their lay assistant, Miss Mary Mainville." The route to Victoria in these days was long and arduous. It was almost thirty years later that British Columbia was linked up with Eastern Canada by the construction of the Canadian Pacific Railway. The journey of the Sisters from Montreal to Victoria occupied almost two months, their route taking them by rail to New York, then down the Atlantic to Aspinwall, across the Isthmus of Panama by train, up the Pacific to San Francisco, and then on to Vancouver Island.

<sup>&</sup>lt;sup>8</sup> Historical Number British Columbia Orphans' Friend, p. 23. Victoria, 1914.

<sup>°</sup>A Chaplet of Years, p. 19. Some idea of the hardships encountered by these first Sisters in their journey to Victoria may be gained from the fact that when Bishop Demers and his party crossed Panama to take boat for San Francisco, he found it necessary "to hire mulattoes to conduct the party to anchored steamers three miles off. As there was no landing place, the mulattoes waded kneedeep to the boats, carrying their passengers on their shoulders, the Sisters looking on with dismay to think that they, too, must be borne on the shoulders of those mulattoes. Nothing had daunted them so far, but to be hoisted on those naked shoulders, to grasp those mulatto necks and to be grasped by those brawny arms, ah, that was too mucn!" Chaplet of Years, p. 20 However, yielding to the inevitable, the Sisters stifled their feelings of repulsion and reached the ship in safety.

Arriving at Victoria on Saturday, June 5, 1858, they opened their Convent school the following Monday. From the very first their venture was a decided success; "the Sisters began school with about ten white children and twenty half-breeds." Within a year it became necessary to enlarge the building and to apply for further recruits, and "on October 26th, Sister Mary Providence and Sister M. Bonsecours arrived at Victoria." 11

The work undertaken by the Sisters of St. Ann in their Victoria school, as may be seen from their prospectus, issued December 2, 1858, embraced the following subjects: "Reading, Writing, Arithmetic, Natural History, English, French, plain and ornamental Needle and Net Work in all their different shapes, will form the course of studies in this Institution."

How the school prospered may be seen from a letter addressed to the public by Bishop Demers in December, 1866, appealing for funds to aid the work of caring for the orphans of the diocese. In part he states:

In 1857 I came to Canada with the purpose of getting Sisters for the education of the young females. In April of the year following I returned with four Sisters of the Order of St. Ann, lately founded by the present Bishop of Montreal. A school was opened forthwith but I soon saw the necessity of adding to their number. In 1859 two more came out, but the work increasing, the combined effort of six Sisters soon proved inadequate to the task, and in 1863 they had the consolation to welcome eight other Sisters. Their school in Victoria has been all the time, and still is, in the most flourishing condition, there being at the last examination one hundred and fifty pupils, boarders and day scholars, and finally they will soon receive a reenforcement of six Sisters,

The B. C. Orphans' Friend, July, 1908, p. 4.
 Op. cit., August, 1908, p. 12.

<sup>&</sup>lt;sup>12</sup> A copy of this first prospectus is to be seen in the museum of St. Ann's Academy, Victoria, B.C.

who took their departure by the steamer Arizona on the 10th of November last.

The good and zealous Sisters, always true to their holy vocation, are not contented with devoting themselves to the education of the white and half-breed children in Victoria, and in New Westminster, British Columbia, where they have also opened a school nearly two years ago. The Indian girls at St. Ann's Mission, forty miles from Victoria, have also become the objects of their boundless charity. There in the summer of 1864 I built a convent for them at my own expense, as the Colonial Government gives me no assistance whatever, not even for the Indian Missions, and a great number of girls are being educated and trained in habits of domestic life—a blessing which the boys are also receiving from one of the missionaries. I was omitting to say that I have also a good school for boys in Victoria.

All these establishments are going on prosperously, but other institutions of equal, if not greater, necessity are still wanting—an orphan asylum and a hospital in Victoria. The Sisters are impatiently waiting for the moment they are put up, to take charge of them. Till now they are compelled to take the orphan children into their own house and for this reason they can afford to receive but a limited number of them. At the time I built the present Convent I thought it would be large enough for many years to come, but the very year following, it proved too small even to accommodate the number of pupils. \* \* \* 13

From the letter of Bishop Demers it is evident that as early as the year 1863, or two years prior to the passage of the first educational legislation in the Colonies, which, in fact, was the first school law passed by any legislative body in British North America west of Ontario, no less than four-teen Sisters and at least one laywoman, Mary Mainville, were engaged in the work of education on the coast of British Columbia, this at a time when the total number of teachers engaged in the colonial schools of British Columbia numbered

<sup>&</sup>quot;A copy of this printed appeal signed by "Modest Demers, Bishop of Vancouver Island, Convent of the Most Holy Redeemer, 173 Third St., New York, December 6, 1866," may be seen in the Museum of St. Ann's Convent, Victoria, B.C.

but three. By the beginning of the year 1867, within six months after the union of the two Colonies, when the Free School System of 1865 was tottering to its downfall, this number of Sisters was increased to twenty. Nor were special institutions for the care and the education of boys wanting during this early period.

On his return from Eastern Canada in 1858, Bishop Demers brought with him the two Brothers, Joseph Michaud and Gedeon Thibaudeau. With the former as principal, he opened up a school for boys, which five years later developed into the present institution, St. Louis College. After the completion of the brick building at present occupied by the College, "the cornerstone of which was blessed on August 25, 1863," Bishop Demers turned the management of the school over to the Oblates. When the new institution "opened on the 17th of January, 1864," 14 its staff "was composed of Father Baudre, president, with the scholastic Bro. Mc-Guckin and the lay Bros. Allen and McStay as professors." 15 The work done by the college was of a high grade. The names of Father McGuckin and Brother Allen, "the most famous educators of that generation," 16 are still in the memory of many, and there are many of the older successful business men of Victoria who can recall their school days at this institution.

On the mainland, just two years later, a second college for boys was opened at New Westminster. Here "in the autumn of 1865 Father Horris commenced his career by teaching with Bro. Allen in St. Louis' College, a newly established counterpart of the institution of the same name in Victoria." Three years previous, "in 1862, Father

<sup>14</sup> The British Governbia Orphans' Friend, Historical Number,

<sup>&</sup>quot;Morice. History of The Catholic Church in Western Canada, vol. 2, p. 321.

<sup>16</sup> The B. C. Orphans' Friend, op. cio, p. 194.

<sup>&</sup>lt;sup>17</sup> Morice, op. cit., p. 330.

Fouguet opened a school for the natives" and half-breed children on the Lower Fraser at St. Mary's Mission, which he had "established in 1860." This school and the Presbyterian school of Rev. Robert Jamieson, opened at New Westminster in the same year, share the honors of being the first regular educational institutions to operate on the mainland of British Columbia. In the year 1868, the Sisters of St. Ann, Sr. M. Lumina and Sr. M. Conception, the former as Superior, joined Father Fouquet at St. Mary's Mission in the work of providing a boarding and industrial school19 for the native and half-breed children, a work they have continued to the present day. In the year 1865, they had opened at New Westminster, the capital of the Mainland Colony, St. Ann's Academy, 20 a boarding and day school for white children. This was several years prior to the establishment of colonial schools21 on the mainland of British Columbia.

In the Cowichan district, Father Rondeault had devoted his energies to the care of the natives, giving much of his time to the instruction of the Indian children. Here, on October 10, 1864, he opened a boarding school for Indian girls, which he placed in charge of the Sisters of St. Am. 22

Hopkins, Castell, Canada, an Encyclopedia. Sol. 2, p. 513.
 B. C. Orphans' Friend, Historical Number, P. 27; B. C. Orphans' Friend, August, 1908, p. 15.

<sup>20</sup> Morice, op. cit, p. 329; L'Eglise Catholique dans L'Ouest Canadien, vol. 3, p. 275.

<sup>&</sup>quot;In a communication to Mr. Cardwell, Secretary of State for the Colonies, on the question of the union of the two Colonies, dated Paris, February 17, 1866, Governor Seymour, who was then visiting the Continent on his wedding tour, speaking of the conditions in the mainland Colony, states that "a lightship, public libraries, new school buildings, testify to the energy of the Government." (Begg. op. cit., p. 370). Yet on February 24, 1867, in his address on education at the first session of the Legislature of the United Colony, held at New Westminster. Governor Seymour states that "these schools have not been under the direction of the Government."

<sup>22</sup> B. C. Orphans' Friend, Historical Number, p. 29.

The attendance at this institution, conducted by Sister M. of the Sacred Heart and Sister M. Conception, for the first year numbered forty-two pupils, while Fither Rondeault himself attended to the instruction of the boys.

Some idea of the character of the work done by these first Catholic schools may be gleaned from an account given in the *British Colonist* of the "Closing Day Exercises" of St. Ann's Convent, Victoria, for the year 1861. The report is in part as follows:

The examination of the pupils of St. Ann's Convent School was a very interesting and agreeable affair. A large number of spectators were in attendance. The scholars were tastefully dressed in white, and the place was ornamented with a variety of flowers and shrubbery. The young ladies made a very creditable appearance, and went through what might be termed almost an arduous ordeal. From natural philosophy to English grammar, from modern history to Greek antiquities, from French exercises to English dialogues, from geography to arithmetic, from music to mythology. The scholars showed a proficiency in these various branches that evinced careful study on their part, and unceasing watchfulness on the part of their preceptors. The correctness of the answers and the general demeanor of the pupils reflect highest credit on the Sisters.

A little after twelve a recess took place till one, when His Excellency and family attended. The utmost interest was manifested by the audience, and the educational exercises seemed to afford general delight.

The Protestant chronicler, Charles Forbes, writing in the year 1862 in his work on Vancouver Island, makes reference to the Catholic schools in Victoria as follows: "The Roman Catholic Church has, under the direction of its Bishop, excellent schools. A school for girls, conducted by the Sisters of Charity, was founded in 1858, and a school for boys the following year. The efforts of the missionaries of that Church among the infidels are worthy of praise, and their

schools are well attended." <sup>23</sup> Rev. Matthew Macfie, one of the earliest Protestant missionaries in the Colonies, in his well-known work, Vancouver Island and British Columbia, pays the following tribute to the Sisters of St. Ann: "The attention which these devout women give to the poor and the orphans contribute more to gain the respect and confidence of the Protestant people than could be accomplished by a thousand volumes of polemic theology. The conduct of the children of the Catholic schools on the Coast to the north of Mexico is not surpassed by that of any Protestant educational institution." <sup>24</sup>

Notwithstanding the superior character of the work done by the early Catholic schools in the two Colonies of British Columbia, no recognition or financial aid was afforded them by the Colonial Government. All expense connected with the erection of the schools, their equipment and operation, had to be defrayed by Catholic contributions and nominal school fees. The colonial funds available for educational purposes during these early years were spent largely in the endeavor to establish a State Church with its system of schools, and later in the futile attempt to inaugurate a Free School System.

As early as the year 1852 Bishop Demers complained of the lack of interest manifested by Governor Douglas and the Hudson's Bay Company in his missionary work for the colonists. To the Bishop of Quebec he wrote: "Against my expectations, the Company refuses me all help; no more any passages on the vessels or with the caravans going to the interior of the country, as formerly; no more any support from the Fort (Victoria) \* \* The land sells at one

<sup>&</sup>lt;sup>23</sup> Forbes, Charles, Vancouver Island, 1862, Quoted by Chauveau, P. J. O., in L'instruction Publique au Canada, pp. 248, 249, Quebec, 1875

<sup>34</sup> P. 81.

pound per acre." <sup>25</sup> In a letter published fourteen years later, a year after the passage of the Vancouver Island Free School Act, speaking of the various Catholic schools operating in the colonies, Bishop Demers states further: "The Colonial Government gives me no assistance whatever, not even for the Indian missions." <sup>26</sup>

<sup>25</sup> Letter to the Bishop of Quebec, dated Victoria, October 26,

<sup>&</sup>lt;sup>26</sup> Public letter, dated Convent of the Holy Redeemer, 173 Third St., New York, December 6, 1866.

#### CHAPTER VII

### COLONIAL EDUCATIONAL LEGISLATION AND CATHOLIC SCHOOLS

It was only sixteen years after inauguration of colonial rule in British Columbia that the Legislature made an attempt to meet the demands of the early settlers for a regular educational system. As early as the year 1856 a representative government with an elected legislative assembly and a nominated legislative council had been established, but the matter of educational legislation was not seriously considered until nine years later. The first attempt by the Legislature to set up an educational system in the Colony, in fact the first attempt by colonial authority to establish a regular system of education west of Ontario, was made in "the year 1865," in the Colony of Vancouver Island, when "the House of Assembly established a free school system."

Under the provisions of this Act, all authority was virtually centered in the Governor of the Colony. The Governor was empowered to appoint a general board of education, consisting of nine persons, three of whom constituted a quorum. This general board was made a body corporate and in it all school property was vested. It had power "with the approval of the Governor to establish as many school districts as it deemed expedient, and to prescribe courses of study. The Governor had power also to appoint a Superintendent of Education, such persons as he might think fit to be teachers of

Short and Doughty, Canada and Its Provinces, vol. 22, p. 408; Jessop, J., First Annual Report on the Public Schools in the Province of British Columbia, 1872, p. 2

the schools, and a local board of education of not less than three persons, in any school district, if expedient for the information and guidance of the general Board of Education.<sup>2</sup>

For the purpose of carrying out the provisions of the Free School Ordinance "the sum of \$10,000 was set apart by the Vancouver Island House of Assembly as a school fund for the year, and Alfred Waddington was appointed Superintendent of Education. Still but little seems to have been accomplished." At the Union of the Colonies of British Columbia and Vancouver Island in 1866, the Island Free School System was virtually defunct, although the schools in Victoria and a few other places continued in operation for two years longer.

According to the Act which united the two Colonies, it was provided "that notwithstanding the Union, the laws in force in the separate Colonies of British Columbia and Vancouver Island at the time of the union taking effect, should, until otherwise provided by lawful authority, remain in force as if the Act of Union had not been passed or proclaimed." 6

Under the provisions of this section of the Act of Union, the Free School Act of Vancouver Island, passed in the previous year, should have continued to function. However, during the first two sessions of the legislative council that met at New Westminister in 1867 and 1868, "nothing was done to promote the educational interests of the United Colony of British Columbia, beyond voting the sum of \$10,000



<sup>&</sup>lt;sup>2</sup> Educational Ordinance, Vancouver Island Colony, 1865; Short and Doughty, op. cit., vol. 22, pp. 408, 409.

<sup>3</sup> Jessop, op. cit., p. 2.

Howay and Scholefield, History of British Columbia, vol. I., p.

Jessop, op. cit.

Short and Doughty, op. cit., vol. 22, p. 414.

and \$6,000 respectively for school purposes." This amount was altogether inadequate, as the estimates of the previous year amounted to \$25,000. Thus, because of the deficit, "by September, 1867, the free schools established by the Board of Education on Vancouver Island ceased to exist." \*

No provision was made by the Act of 1865 for the legal recognition of the Catholic schools as a part of the educational system of the Colony. When the subject of establishing a regular school system was being considered seriously by the Colonies, strenuous efforts were put forward by the Catholics to secure the legal recognition of Catholic schools. The files of the British Columbian for the years 1864 and 1865, full of editorials and correspondence on the subject. clearly show that efforts had been put forth by non-Catholics as well as by Catholics to secure the legal recognition of a system of separate or denominational schools. Father Fouquet championed the Catholic cause and "published, in the course of 1865, a pamphlet in which he vindicated the rights of Catholics to a Christian education, and set forth the injustice of compelling them to contribute to the support of a system of schools to which they could not conscientiously send their children."9 On the other hand, "John Robson championed the cause of the non-sectarian schools, and it is no exaggeration to say that British Columbia owes its nonsectarian schools largely to his influence." 10

By the passage of the Vancouver Island Free School Ordinance of 1865, Catholic schools were excluded from participation in colonial school funds. All schools established under this Act were to be conducted upon "non-sectarian principles; books inculcating the highest morality were to

Op. cit., p. 417.

<sup>&</sup>lt;sup>9</sup> Morioe, Rev. A. G., L'Eglise Catholique dans l'Ouest Canadien, vol. 3, p. 275.

<sup>10</sup> Short and Doughty, op. cit., p. 413.

be selected, and books of a religious character teaching denominational dogmas were to be excluded." To provide for the religious instruction of the children, "the clergy of every denomination, at stated intervals to be fixed by the general board of education, were allowed to visit the schools and impart in a separate room religious instruction to the children of their respective persuasions." 11

On the Mainland of British Columbia, before the Union of the two Colonies, there existed no government system of schools. When, on August 6, 1866, by an Act of the Imperial Government, Vancouver Island and the Mainland of British Columbia were united, the Legislature of the United Colony refused to provide the funds necessary to carry out the provisions of the Vancouver Island Free School Act of the previous year. In an address on education, shortly after the opening of the first session of the United Colony, at New Westminster in January, 1867, Governor Seymour stated his attitude towards the establishment of a general colonial system of education as follows:

On the Mainland the Governor has been compelled to acknowledge that the population is yet too small and scattered for any regular system of education to be established. Where parents have been willing to pay towards the instruction of their children, he has, with the consent of the Legislative Council, assisted them from the public funds. The schools have not been under the direction of the Government, and pupils have been led or sent from those that asked assistance from the public to those enjoying the dignity of independence, or back again as the parents might elect.

The Governor is of opinion that the Colony is not yet old enough for any regular system of education to be established.<sup>12</sup>

Could Governor Seymour have had his ideas carried into effect in the establishment of the educational system of

<sup>11</sup> Op cit., p. 409.

<sup>22</sup> British Columbia Colony Sessional Papers. February 24, 1867.

dis

British Columbia, denominational schools would have had due recognition as a part of the educational system of the United Colony, and it is not improbable that Catholic schools would have received at the hands of the provincial authorities merited recognition in the educational system established later. At least, they would have been in a position to claim such recognition under Section 93 of the British North America Act, 1867, or the Federal Constitution.

In concluding his address, Governor Seymour made known his attitude towards denominational schools:

He believes that the community in which he resides is one where complete toleration in religious opinion exists. It is not, therefore, under these circumstances, for the State and its salaried officers to interfere with the belief of any The Government has not undertaken to prove to the Jew that the Messiah has indeed arrived; to rob the Roman Catholic of his belief in the merciful intercession of the Blessed Virgin; to give special support to the Church of England: to mitigate the acidity of the Calvinistic doctrines of some Protestant believers, or to determine, authoritatively, the number of the Sacraments. Therefore, the Governor is of opinion that when the time comes for the establishment of a large common school, religious teaching ought not to be allowed to intrude. It is vain to say that there are certain elementary matters in which all Christians, leaving out the Jews, must agree. It is merely calling upon a man, picked up at random, allured by a trifling salary, to do what the whole religious wisdom, feeling and affection of the world has not yet done. The paring down of all excrescences which a man on a hundred and fifty pounds a year may think disfigure the several religions, and the reducing them to a common standard becomes a sort of Methodism which may locally be named after the school-master who performs it.

In a Colony with which the Governor was recently connected he left the following school system. There was a public school open to all denominations, where the school-master did not presume to open to the children any sacred mysteries. The charge upon the children attending regularly was half a dollar a month. But there were denominational schools,

also, to which the Government contributed, but in a moderate It was found that these denominational schools, though more expensive to the parents, absorbed the greater number of the children. Such is the system he would desire to see in any concentrated community.13

The Governor was not able to have his policy in regard to denominational schools carried into effect; for, when the first educational legislation of the United Colony of British Columbia was enacted on March 13, 1869, no provision was made for such schools. When Governor Seymour gave his assent to "an Ordinance to establish public schools throughout the Colony of British Columbia," the Common School Act of the original Colony of Vancouver Island was repealed and a general "non-sectarian educational system" for the United Colony was provided for. By this Act the Governorin-Council was empowered, among other things, to establish school districts, to appoint teachers to the common schools, "to provide that text-books used in the schools be of a proper and non-sectarian character." 14 The free school system provided for in the earlier legislation of 1865 was abolished, while part of the support, "not to exceed five hundred dollars per teacher," was to be provided from the treasury of the Colony, the balance necessary for the maintenance of the school to be borne by the people of the district, to be raised by rates, voluntary subscription, or tuition fees, provided that the tuition be fixed at not more than two dollars per month for each scholar. This latter method was the one generally adopted. The Governor-in-Council could refuse to establish a school in districts "where the number of children likely to attend did not exceed twelve, or where the amount likely to be collected for school purposes would not exceed three hundred dollars per annum."15

Op. cit., Feb. 24, 1867.
 Short and Doughty, Canada and Its Provinces, vol. 22, p. 418.
 British Columbia Common School Ordinance, 1863.

When the United Colony facted as its first educational legislation "An Ordinance to establish Schools throughout the Colony of British Columbia," there was perpetuated in Vancouver Island and on the Mainland the non-sectarian school system. "All text-books used in the schools were to be of a proper and non-sectarian character." But although the school system thus provided for was to be strictly non-sectarian, yet it was made "lawful for any clergyman of any denomination, before and after school hours, to visit the public school of the district in which he lived and to impart such religious instruction as he might think proper to the children of his own denomination."

The system of public schools established under the Common School Ordinance of 1869 was not long-lived. Despitethe fact that the graver defects of the Act, such as the absence of any provision for a Superintendent of Education, and a Government Supervisor or Inspector of Schools, were remedied by the legislative session of 1870, the system proved a miserable failure. "On the Mainland several new school districts were created and a few school houses erected. But a few months' experience was sufficient to demonstrate the fact that nothing short of an absolutely Free School system would meet the requirements of the Colony." Even in the capital city, Victoria, "the effort to keep the colonial schools operating, had to be abandoned in 1870." The result was that, "from that time until 1872," when, after the Confederation of the Province of British Columbia, the provincial school system was inaugurated, "there was no public school in the city." 18

The amendments to the School Act in the year 1870 effected no change in the attitude of the Colonial law to the

<sup>&</sup>lt;sup>16</sup> Jessop, J., First Annual Report on the Public Schools in the Province of British Columbia, 1872, Victoria, B.C.

 $<sup>^{\</sup>rm TI}$  Short and Doughty, Canada and Its Provinces, vol. 22, p. 422.  $^{\rm IS}$  Jessop, op. cit

Catholic school system. Catholics were compelled to bear the double burden of contributing to the support of the Colonial Public School/system while maintaining their own schools.

A point worthy of note here because of its possible legal bearing on the Catholic school question in its relation to provincial legislation, is the fact that under colonial rule Catholic schools were left free to carry out their own policies, and courses of instruction, entirely unhampered by any legal restrictions. Nor were the Catholic school properties subject to general taxation for colonial or municipal purposes. On the latter score, at least, they were placed on an equal footing with the colonial schools established by the pre-provincial educational legislation.

#### CHAPTER VIII

## CATHOLIC SCHOOLS AND PROVINCIAL LEGISLATION

It was only after British Columbia became organized as one of the Canadian Provinces, in the year 1871, that anything like an educational system was established within its territory. Even at the time of Confederation, the total population of the Province numbered 36,247 souls, of which only 8,500 were white men. In the year 1872, the Legislative Assembly of the new Province took the matter of education under consideration and passed the "Public School Act," making provision for the establishment, maintenance and management of public schools in British Columbia. By tion 1 of this Act, the Common School Ordinance of 1870, i.e. the pre-confederation educational legislation, theh on the statute books, though not operative, was repealed. Provision was made whereby schools established under this Act were to be financed "out of the General Revenue of the Province, the sum of forty thousand dollars for public school purposes" was to be set apart by the officer in charge of the treasury for the coming year, and each subsequent year a sum was to be voted for educational purposes by the Legislative Assembly. Section 3 of the Act gave to the Lieutenant-Governor-in-Council power to appoint "six fit and proper persons" to be a Board of Education for the Province of British Columbia "to hold office during the pleasure of the Lieutenant-Governor." The Lieutenant-Governor-in-Council was also empowered "to appoint a Superintendent of Edu-

Porritt, E., Evolution of the Dominion of Canada, p. 54.
Public Schools Act of British Commbia, 1872, section 2

cation who shall be ex-officio chairman of the Board of Education." By this Act all authority was centered in the Lieutenant-Governor, who had the appointment of the General Board of Education and the Superintendent of Education, in whose hands practically all matters connected with the establishment, maintenance, and administration of schools were placed; even the appointment and dismissal of teachers coming under their jurisdiction. The educational system provided for by "The Public School Act 1872." was to be strictly non-sectarian. "All Public Schools established under the provisions of this Act shall be conducted upon strictly non-sectarian principles. The highest morality shall be inculcated, but no religious dogmas or creed shall be taught."

Although the system of education provided for by this Act required that it be strictly non-sectarian in character, still, the "Rules and Regulations for the government of Pacific Schools in the Province of British Columbia" for the same year contained the following provisions for religious exercises:

With a view to secure the Divine blessing, and to impress upon the pupils the importance of religious duties, and their entire dependence on their Maker, it is recommended that the daily exercises of each Public School be opened and closed by prayer. The Lord's Prayer alone, or the Forms of Prayer hereto annexed, may be used; but the Lord's Prayer should form part of the opening exercises, and the Ten Commandments be taught to all the pupils, and be repeated at least once a month, but no pupil shall be compelled to be present at these exercises against the wish of his or her parent or guardian expressed in writing to the teacher.

No provision was made for separate or Catholic schools. Nor could any legal claim be made for the recognition of

Op. cit., section 35.

<sup>\*</sup> The First Annual Report of the Public Schools in the Province of British Columbia for the year ending July 31, 1872.

the Catholic school system by the provincial authorities as a part of the general educational system. For although Section 93 was, by the Act of Union of 1871, made applicable in its provisions to British Columbia, it being provided that "the provisions of the British North America Act of 1867 shall be made applicable to British Columbia in the same way and to the like extent as they apply to the other Provinces of the Dominion," and as if the Colony of British Columbia had been one of the Provinces originally united under the said Act, still the Catholics of the Province had no legal claim to recognition, for, as shown above, at no time previous to the Union had the Catholic schools been recognized by the Legislature as a part of the educational system of the Colony. Section 93 of the British North America Act, which guarantees to the British minority all the rights and privileges that it had by law before the Union, would have guaranteed and safeguarded the right to separate schools had such schools been legally recognized previous to the Union, and section 35 of this Public School Act would have been ultra vires—null and void.

Only the legal recognition of Catholic schools before Confederation would have established a valid claim to the continuance of such recognition under Section 93 of the British North America Act. But the Catholic schools of British Columbia, like those existing in Nova Scotia and New Brunswick previous to and at the time of Confederation, had never been established or sanctioned by any authority having legislative jurisdiction. Already the matter had been definitely decided by the decision of the highest court of appeal, the Privy Council, in the case of the New Brunswick Catholic school system. In New Brunswick, before Confederation, there was a parish school system somewhat similar to that which existed in British Columbia at the Union.

<sup>&</sup>lt;sup>5</sup> British Columbia Act of Union, 1871, Section 10.

For years after Confederation, when an educational bill was enacted by the Provincial Legislature ignoring the Catholic school system, the question was raised whether parish schools constituted a separate school system under the terms of the British North America Act. A case was taken to the judicial committee of the Privy Council at Whitehall (London). The decision (which also decided the legal status of Catholic schools in Nova Scotia) was that the New Brunswick parish system could not in the strict legal sense properly be held to constitute a separate school system.6

Four years after the establishment of the present system of "non-sectarian" schools in British Columbia, Premier Elliott introduced into the Legislature a measure which called forth a vigorous protest from the Catholics and others in favor of denominational schools. This was the School Tax Bill of 1876, an Act to provide for the maintenance of the public schools of the Province. This Act provided that every male person above the age of eighteen years, resident in the-Province, should pay an annual tax of three dollars for the support of the public schools. The Catholics, inasmuch as for conscientious reasons they could not use these schools but were obliged to support schools of their own, protested against being compelled to pay such a tax for the support of public schools, and petitioned the Legislature for exemption from such additional burden, or for the recognition of the Catholic schools as a part of the educational system of the Province. "The Legislature failed to recognize the validity of such objections urged, and that was the first and last effort in the establishing of separate schools in the Province." 7

Several years later the title of the Bill was changed by being amended to the Revenue Tax Act, and so at present

<sup>&</sup>lt;sup>6</sup> Porritt, op. cit., p. 242. <sup>7</sup> Gosnell, R. E., *British Columbia Year Book*, p. 61.

its connection with the support of public schools is not noticed.

The Public School Act of 1872, with its amendments, remained in force for seven years, when the Legislature revoked all previous educational Acts and in lieu thereof passed the Public School Act of 1879, by which certain provisions of the old Act were repealed, others amended, and new provisions added. This Act, with certain "Rules and Regulations" issued shortly afterwards, and with later amendments, remains as the present school law.

The new statute did not in any way change or modify the provincial attitude with respect to Catholic schools. Section 35 of the Public School Act of 1872, providing for "nonsectarian" schools, remained operative in the Province until amended in 1905, when this section was supplanted by Section 3; which remains in force to the present day. This section provides that "All public schools shall be free and shall be conducted on strictly secular and non-sectarian prin-The highest morality shall be inculcated, but no religious dogmas or creed shall be taught. The Lord's Prayer may be used in opening or closing schools." Section 3 of the present school law and Section 35 of the Act of 1872 are almost identical, the only real change being the addition of the word "secular," and permission to use the Lord's Prayer at the opening or the closing of schools. This section as it stands excludes the possibility of the legal recognition of a separate or denominational school system in the Province.

Catholic schools, although not recognized as a part of the provincial system of British Columbia, have, however, some slight recognition given to their work under the Compulsory Education Clause. Attendance at a Catholic school is accepted as fulfilling the provisions of the Act without an attempt being made by the authorities to regulate in any way the

courses given, the qualifications of teachers, or any other of its features. All Catholic children from seven to fourteen years, inclusive, or any child, for that matter, may fulfill the prescriptions of "Section 140" of the British Columbia Educational Act by attending a Catholic school. This holds good throughout Canada, even where Catholic separate schools form a part of the provincial educational system. In Alberta and Saskatchewan, as well as in Ontario, many convent schools are conducted as private schools without any attempt being made to place restrictions thereon by the provincial authorities.

A different condition of affairs obtains in Australia, where Catholic schools, although not recognized as a part of the provincial system, are obliged to submit to certain provincial restrictions and regulations. In West Australia, for example, "Catholic and other non-government schools must be declared efficient by the education department," if attendance at them is to be recognized as fulfilling the requirements of the Compulsory Education Law. "The school register must be open to inspection of the compulsory attendance officers of the Department of Education." In the Province of Victoria (Australia), Section 60 of the Act of 1910 empowers the Minister of Education "to authorize the inspection of any school (other than a State school) in order to ascertain whether instruction given is satisfactory.8 This is also the case in a few States of the United States. In Massachusetts, for instance, since 1882,9 Catholic and other private schools must submit themselves to the approval of local authorities in order that attendance at them may be deemed a compliance with the Compulsory School Law. 10 In Nebraska, among other regulations affecting Catholic schools, parish schools and their teachers are governed by the provisions of the



<sup>6</sup> Of. Australian Year Book, 1916, p. 812.

Public Statutes, ch. 47.

<sup>&</sup>quot;Catholic Educational Association Bulletin, vol. 16, Nov., 1919.

school law of the State in so far as these apply "to grades, qualification, and certification of teachers; and the promotion of pupils." "Courses in the parish schools must be, for all grades, substantially the same as those given in public schools." They are subject to the inspection of county or city superintendents as if they were public schools. All teachers in Catholic schools must have obtained a "teacher's certificate entitling them to teach corresponding courses or classes in public schools, where the children attending would attend in the absence of such private or parochial school." 13

While no such regulations exist in British Columbia affecting Catholic schools, yet it would seem that there is nothing in the Provincial or in the Federal Constitution which could prevent similar legislation on the part of the Provincial Legislature. Such action could not be held under "Section 93" of the British North America Act to "prejudicially affect any right or privilege with respect to schools" which Catholics had by law within the Province at the time of Union. Besides, the Supreme Court of Canada seems to have decided this question, for in the case of the Manitoba school decision Judge Patterson declared that in the judgment of the Supreme Court: "There is no general prohibition which shall affect denominational schools. \* \* \* There is, therefore, room for legislative regulation on many subjects, as, for example, compulsory attendance of scholars. the sanitary conditions of the school houses, and sundry other matters which may be dealt with without interfering with the denominational character of the schools." such a decision applies primarily to such Provinces as Manitoba, Alberta and Saskatchewan, where Catholic schools formed, or now form, a part of the regular provincial edu-

<sup>&</sup>quot;Nebraska House Roll, No. 64, 1918, Section 1."

<sup>&</sup>lt;sup>12</sup> Op. cit., Section 3.
<sup>13</sup> Op. cit., Section 3.

63

cational system; yet it would seem that, in the absence of any other general legal exemption, the Catholic schools of British Columbia might be subject to provincial regulations to the extent indicated by the Supreme Court decision in the Manitoba case.

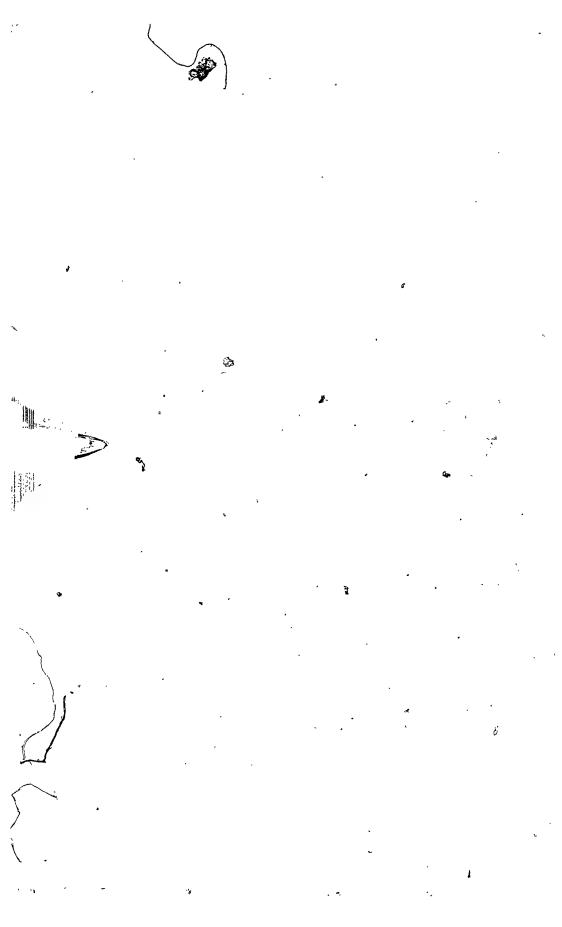
Has the Legislature of British Columbia the power to abolish Catholic or denominational schools and compel attendance at its State or provincial non-sectarian schools? In Manitoba the provincial Legislature has no such power, for the Privy Council has decided that "notwithstanding the Public School Act of 1890, Roman Catholics and members of every other religious body in Manitoba are free to establish schools according to their own religious tenets without molestation or interference, and no child is compelled to attend a public school." Whether the rights and privileges enumerated above, as applying to Manitoba, exist, and apply to the same extent with reference to the Catholics of British Columbia is a matter of uncertainty. In the opinion of the great constitutional authority, Clement, "such a law could not be passed in Ontario, Quebec, or Manitoba, sed quaere as to the other Provinces." As this was written in 1903, before the establishment of the two Provinces of Alberta and Saskatchewan, the statement can hardly refer directly to these Provinces. The writer undoubtedly had the British Columbia situation in mind, and, according to his opinion, the matter is doubtful. In any case, it would be for the courts to determine the validity of such legislation, and should the Supreme Court or Privy Council decide that such action was intra vires of the Legislature of British Columbia, then recourse could be had to an appeal under "Section 93" of the British North America Act to the Federal Legislature to safeguard the just claims of the Catholic minority to maintain Catholic schools within the Province.

<sup>&</sup>quot;Clement, Canadian Constitution, p. 322.

It may be asked if there is anything in the Federal or Provincial Constitution to prevent the future recognition of the Catholic schools as a part of the provincial system., In-Canswer, it may be stated that this rests entirely with the Provincial Legislature, which is quite competent at any time, if it so wills, to repeal Section 3 of the present Public Schools Act and adopt a system similar to that existing in Alberta, Saskatchewan, or Quebec. Once the Catholic schools of British Columbia could secure legal recognition by the Legislature of the Province the continuance of such recognition would be guaranteed or safeguarded by "Section 93" of the Federal Constitution, which would, in relation to such schools, immediately become operative. Even at the present time there would seem to be no valid legal objection to prevent the authorities from giving the Catholic schools of British Columbia some formal recognition, 2at least to the extent that they are recognized in Nova Scotia or New Brunswick, where, although not provided for or permitted by the provincial school law, separate or Catholic schools are recognized by practice or custom and supported by provincial school funds on condition that the standard courses are conducted under teachers with provincial licenses.

Yet to all appearances the date for such recognition of Catholic schools in British Columbia is quite distant; for under the present provincial legislation no general exemption from taxes is made in favor of Catholic schools, which are constrained to bear their proportionate share of provincial and municipal taxation. It is true that the academy of St. Ann, Victoria, has been exempted by an Act of the Provincial Legislature, a favor accorded them some years ago for services rendered the community by the Sisters of St. Ann during a plague, and not in view of the educational services rendered the Province of British Columbia.

<sup>15</sup> Art. "British Columbia," in the Catholic Encyclopedia.



SECTION III

EDUCATIONAL LEGISLATION AND CATHOLIC
SCHOOLS IN ALBERTA AND
SASKATCHEWAN



### CHAPTER IX

#### CATHOLIC SCHOOLS PRIOR TO TERRITORIAL RULE

The two Provinces of Alberta and Saskatchewan are yet young in their provincial life. Scarcely eighteen years have elapsed since they took their place as Provinces in the great Confederacy of the Dominion of Canada. The history of the educational strangeles of this section of Canada goes back at least half a century beyond the date of their provincial birth. The first educational efforts in that part of the vast region of the North-West Territories which now constitutes these Provinces were directed by the early missionaries. "Most active in this work were the Catholic missionaries, who with great and often with heroic self-sacrifice labored among the Indians and sought to make them, in as great a measure as possible, peaceful and provident citizens."

Long before any attempts were made to provide for the

<sup>1</sup> Short and Doughty, Canada and Its Provinces, Archives Edition, vol. 20, p. 477.

educational needs of the western part of the North-West Territories, the Catholic missionaries had established themselves in the eastern section of the Territories (Manitoba), devoting themselves with great energy and zeal to the religious and educational wants of the early settlers. It was from here (St. Boniface) that the earlier missionary and educational activities of the territory now forming the two Provinces of Alberta and Saskatchewan were directed by Bishop Provencher, who "in February, 1820, was named titular Bishop of Juliopolis and coadjutor of the Bishop of Quebec for the North-West." It was Bishop Provencher who, in 1818, at the request of Lord Selkirk, had been sent with Father Dumoulin by Bishop Plessis of Quebec, to look after the missionary needs of the Red River Settlement, with instructions to "watch with jealous eye over the education of the youth and to establish schools wherever possible."3 Obedient to instructions, they set to work, and within the year two schools were organized, one at the mouth of the river Sein (St. Boniface), the other at Pembina, which at that time was thought to be British territory. In this latter school no less than "sixty children were enrolled the first year." In 1829, Bishop Provencher opened "the first school for girls ever organized in the settlement," 5 while four years later, Father Belcourt organized the "first Industrial School of the North-West, at Baie St. Paul (St. Eustache)."6

So impressed were the officers of the Hudson's Bay Company with the splendid work done by the "Roman Catholic missionaries who weighthe first upon the ground," and who, according to the Protestant historian, Alexander Begg, "were

<sup>2</sup> Morice, A. G., The Catholic Church in Western Canada, vol.

<sup>&</sup>lt;sup>3</sup> Morice, op. cit., p. 97.

Short and Doughty, op. cit., vol, 20, p. 418.

<sup>&</sup>lt;sup>5</sup> Op. cit., p. 419. <sup>6</sup> Morice, op., cit., p. 140.

Short, and Doughty, op. cit.,

certainly the first to establish schools in the North-West," 8 that, beginning with the year 1825, they donated fifty pounds annually to assist the work of the Catholic missionaries.9

In the Minutes of the Council of the Red River Colony for the year 1833 is to be found the following record of the annual grant:

Great benefit having been derived from the benevolenty and indefatigable exertion of the Catholic mission of Red River in the welfare, moral and religious instruction of its numerous followers and it being observed, with much satisfaction that the influence of the mission of the Right Reverend Bishop of Juliopolis has been uniformly directed to the best interests of the Settlement, it is Resolved:

That in order to mark our appreciation of such laudable and disinterested conduct on the part of the said mission the sum of fifty pounds be given towards its support together with an allowance of luxuries for its use.

Signed George Simpson, Governor, J. D. Cameron, Chief Factor, Alexis Christie, Chief Factor, Jas. McMillan, Chief Factor.

Red River Settlement, 5th June, 1833.10

The Records of the minutes of the Red River Colony's Councils during the succeeding years are equally appreciative, while those of the year 1839 note an additional vote of fifty pounds in aid of the recently burned School of Industry.11

In the year 1844, occurred a event which has had im-

Segg, Alexander, History of the North-West, vol. 3, p. 394.

Begg. op. cit., p. 395.

10 Oliver, C. H., The Canadian North-West, Its Early History and Legislative Records, vol. 2, p. 703.

11 The minutes for the "12th June, 1839," contain the following records: "(84) That an allowance of 100 pounds with the usual supplies of tea, sugar, etc., be made to the Catholic Mission of Red River Settlement for the Current Outfit. (85) That the sum of 50 pounds be given in aid of the School of Industry unfortunately burned down this season, and the same be placed at the dis posal of the Right Revd. the Bishop of Juliopolis."

portant bearing on the early educational activities of the western as well as the eastern section of the North-West Territories—the arrival of the Sisters of Charity (Grev Sisters) at St. Boniface. Shortly after his consecration as Bishop of the North-West Territories, Bishop Provencher. realizing the supreme importance of providing for the education of his flock, consulted Bishop Plessis of Quebec in 1822 with regard to securing Sisters for the work. Bishop Plessis deemed it imprudent to ask any Community of women to undertake the work while the country remained in such a primitive state. Some years later application was made, without result, to the Bishop of Amiens, and the Lyons Society for the Propagation of the Faith. In 1838 the Ursulines of Three Rivers, touched by Bishop Provencher's account of the great need of Religious to assist in the work of educating the native and half-breed children of his diocese. offered to go to him, but being a cloistered Community their offer had necessarily to be declined. Appeal was made to the Sisters of the Cross in Kentucky. They were too few in number. The Sisters of St. Joseph in Lyons were also unable to accept. Some Belgian nuns in Cincinnati promised to refer the matter to their Mother House in Namur.12 "In 1842 he begged the Bishop of Quebec to get him Sisters of any Order and then wrote to Mgr. Loras, of Dubuque, in the United States, always in the same strain, but also with a like result." 13

Worn out with many disappointments in the Old World and in the New, Bishop Proveneher was on the point of giving up his attempt when Bishop Bourget of Montreal suggested to him that he should appeal to the Sisters of the Community of Mother d'Youville: "Try the Grey Nuns; they never refuse." Nor was he disappointed. Sister Valade

<sup>12</sup> Duchaussois, P., The Grey Nuns in the Far North, p. 30.

<sup>13</sup> Morice, History of the Catholic Church in Western Canada. vol. 1, p. 183.

(Mother Superior), Sister Lagrave, Sister Coutlee, and Sister Lafranc set out from Montreal for the Red River and after a journey of fifty-nine days, during which incredible hardships were heroically endured, they arrived at St. Boniface. on June 21, 1844.14

A convent school was opened on July 11th. It is worthy of note that this was the first Sisters' school established in the vast stretches of Canada west of Ontario. "They had from the very beginning fifty-four pupils, mostly Sauteux or Half-Breeds, and some Sioux." The school prospered and grew very rapidly and, receiving further recruits from Montreal, it shortly developed into the Provincial House of the Grev Sisters in the North-West. From here largely were directed the foundations of the early Catholic mission schools of Alberta and Saskatchewan, which were almost entirely under the direction and care of the Sisters of this Community.

The advent of the Sisters to St. Boniface assisted very considerably the development of the early missions in the western part of the North-West Territories. For although missions and mission schools had been established in the eastern section of the Territories as early as 1818-19, still no regular attention was given to the more distant parts of the vast prairies (Alberta and Saskatchewan), till a quarter of a century later. The lack of priests made this impossible. At the arrival of the Grey Sisters, Bishop Provencher "did not have more than four priests at his disposal in 1844 for the twenty-eight hundred white and half-breed Catholics scattered over a region as vast as a kingdom."16 Much of the time of these few missionaries was devoted to catechetical and educational work in the eastern and more settled parts of the Territories. With the arrival of the Grey Sisters

<sup>14</sup> Cf. Duchaussois. op. cit., chap. 2, pp. 30-40.

<sup>15</sup> Duchaussois, op. cit., p. 40. 16 Morice, op. cit., vol. I, p. 187.

most of the religious instruction, not only of the children of the Convent school but of the surrounding missions as well, was attended to by the Sisters. Sister Lagrave, who gave religious instruction to the people outside the school at St. Boniface, also "went distances of several miles, to teach the catechism and prayers to children and women and men, all of whom eagerly welcomed her instruction." 17 this way the few priests available, freed from the catechetical work around the vicinity of St. Boniface, were permitted to give wider scope to their missionary zeal.

The first resident Catholic missionary to enter the western part of the North-West Territories was Father Thibault, who, in 1842, came to Fort Edmonton.18 He, in the same year, founded, about fifty miles father west, St. Ann's mission, which he used as headquarters for his missionary work among the surrounding tribes. Four years previously, Father -Demers, who afterwards became the first Bishop of British Columbia, in crossing the prairies with Father Blanchet on their way to the Pacific Coast, had stopped at Edmonton. Their sojourn at Fort Edmonton was of short duration. Traces of their visit were found near the site of Old Bow Fort (Edmonton) by Father Lacombe, who "in 1852 came upon a cross that had been planted there with much ceremony by Father Demers and Father Blanchet in 1838." 19

It was in the year 1852, that Father Lacombe, the famous missionary of the North-West, had come to Fort Edmonton. Although at this time the total population of whites and half-breeds was very small, he soon realized the importance and urgent necessity of providing for the educational

<sup>17</sup> Duchaussois, The Grey Nuns in the North, p. 40.
18 Short and Doughty, op. cit., p. 477; Morice, op. cit., vol. I.,

<sup>19</sup> Hughes, K., Father Lacombe, p. 61. The new Parliament Buildings of the Province of Alberta, at Edmonton, have been erected directly on the site of the old Cross planted here in 1838 by Father Demers and Father Blanchet.

needs of the district. In the year 1862, Father Lacombe visited St. Boniface, bringing back with him Brother Scollen, to open a school for the white children of the Fort. The school was first held in the log chapel within the Fort, which was placed at his disposal by the officials of the Hudson's Bay Company. The attendance at the school was about twenty pupils, the children of the Company's clerks and servants. In opening this school Father Lacombe merits the distinction of having established in the North-West Territories in 1862, at Edmonton, "the first regular school to be opened west of Manitoba." <sup>20</sup>

Three years prior to the opening of the school at Fort Edmonton, the Grey Sisters had opened their first mission school in Alberta and Saskatchewan, at Lac St. Ann. September 24, 1859, Father Remas, then in charge of the mission, returned from St. Boniface, after a journey lasting fifty-two days, during which indescribable hardships were endured, bringing with him Sisters Émery, Lamy and Alphonse, whom Bishop Tache had secured from the Mother House at Montreal, for the purpose of opening a school for the native and half-breed children in the Indian settlements about Edmonton. Four years later the school was transferred to St. Albert, as being a more suitable location for the Indians of that district who were coming into the Church in considerable numbers.21 Here was opened a boarding school and orphanage. This institution progressed so favorably that in the course of time it became the Provincial House of the Grey Sisters in the western part of the Territories.

The second of the schools conducted by the Grey Sisters in the district later forming Alberta and Saskatchewan, was founded by Sisters Agnes, Pepin and Boucher, at Ile à la Crosse, on October 4, 1860. This school prospered until

<sup>20</sup> Short and Doughty, Canada and Its Provinces, vol, 20, p. 478.
21 Duchaussois. The Grey Nuns in the Far North, pp. 46, 47;
Morice, op. cit, p. 285.

March 1, 1867, when it was totally destroyed by fire. It was shortly replaced by a larger building, where up to the date of the formation of the Provinces of Alberta and Saskatchewan, the Grey Sisters continued their work with the native and half-breed children of the surrounding district. Some idea of the hardships endured by the Sisters in establishing the school may be gathered from the fact that the journey from St. Boniface to their destination took the Sisters no less than sixty-three days, during which they encountered very many disappointments, difficulties and accidents.<sup>22</sup>

Another school established about this time was that at Lac la Biche, an institution which was destined to be for a long time a centre for the Northern Missions. This institution also was conducted by the Grey Sisters, the founders being Sisters Guenette, Daunais, and Tisseur, who arrived at Lac la Biche on August 26, 1862.<sup>23</sup> This was a year previous to the opening of the first non-Catholic school established in the western section of the Territories, (Alberta and Saskatchewan); the first Protestant mission school being organized at White Fish Lake in the year 1863 by the well-known pioneer Methodist Missionaries, the Rev. George McDougall and his son, the Rev. John McDougall.<sup>24</sup> At this time, four other Catholic schools had been established in this section of the Territories.

Up to the year 1870 the vast territory of the North-West, out of which the two Provinces of Alberta and Saskatchewan were carved, was not in any way subject to Canadian rule. The population was small and scattered. In the Territories, "beyond Portage La Prairie stretched for nearly eight hundred miles the vast plains, tenantless except for the location at strategic trading-points of the Forts of the Hudson's Bay

<sup>22</sup> Duchaussois, op. cit., pp. 49 ff.; Morice, L'Eglise dans l'Ouest Canadien, pp. 113-115.

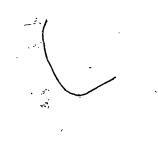
<sup>23</sup> Duchaussois, op. cit., p. 24.

<sup>24</sup> Short and Doughty, op. cit., p. 479.

Company." 25 Over all this territory the Hudson's Bay Company held rule. But in the year 1869, negotiations were com-- pleted which resulted in effecting a great change in the government of the North-West Territories. Arrangements were completed by which the Company agreed to relinquish its charter rights to the Imperial Government for 300,000 pounds sterling, with the understanding that the vast stretch of territory was then to be transfered to Canada. After overcoming considerable opposition to the scheme, on the part of the settlers who had not been consulted in the matter, arrangements were completed whereby, on July 15, 1870, all that portion of British North America lying between Ontario and British Columbia became by Royal Proclamation a part of the Dominion of Canada. In the same year, the Province of Manitoba was organized in the eastern and more settled portion of the Territories. "At that time the population of Manitoba comprised some two thousand white and approximately five times the number of Metis or natives of part French or Scotch descent." 26 No provision was made until some years later for a separate constitution for the Territories. To the Lieutenant Governor of the new Province and a Council having executive legislative functions was confided the government of the country. The Lieutenant Governor of Manitoba held, ex-officio, for some years, a similar position with reference to the rest of the North-West Territories. In this way the educational policy of the western section of the Territories came to be greatly influenced by that of Manitoba.

<sup>25</sup> Short and Doughty, op. cit., p. 285.

<sup>26</sup> Op. cit, p. 331.



#### CHAPTER X

# CATHOLIC SCHOOLS AND TERRITORIAL EDUCATIONAL LEGISLATION

Until the Territories were organized with an independent government no provision had been made for the establishment of any educational system by the Colonial or Canadian Governments. In 1875, the North-West Territories were organized and provided with a separate government, although the Lieutenant Governor of the Province of Manitoba still continued to hold the same office in relation to the Territories. The Act of 1875 provided for a Legislative Council presided over by a chief executive officer to be styled and known as the Commissioner of the North-West Territories. In this Act provision was made by the Dominion Government for the establishment of a school system which was to embody the principle of separate or denominational schools.

When the bill for the establishment of the provisional government in the North-West Territories was introduced into the Canadian Parliament, it contained no reference to separate schools. On the omission being brought to the attention of Hon. Edward Blake, who was responsible for the drafting of the bill, he explained that he had not thought of the subject of separate schools until it was too late to insert an educational clause. He promised, however, to have one introduced on the second reading of the bill. In this connection Mr. Blake made reference to the recent appeal of the minor-

ity in the New Brunswick School case, an appeal which, for constitutional reasons, the Government had not been able to entertain. To avoid any trouble of this character in the Territories, he thought it best to lay down a general principle in respect to public instruction, which should give the people the type of schools they desired. He therefore had embodied in the bill a clause providing for separate or denominational schools. The Canadian legislative debates for the year show that very little opposition or even discussion took place on the educational clause when it was introduced by Hon. Alexander Mackenzie. The principle of separate schools seemed by this time to be recognized by all parties concerned, and when the matter came to a vote, it received the unanimous approval of the Canadian Houses of Parliament.

At this time, the white population of the Territories, which numbered about five hundred, was about evenly divided between Catholics and Protestants, and, from all indications, the minority of the North-West Territories would be Protestant; so the bill was strongly supported by the Protestant members of the Federal Parliament. A separate school system "similar to that which experience had proved to be satisfactory in the Province of Ontario," was provided by the Act.

In section 2, of the North-West Territories Act, which was not repealed by the Canadian Government until supplanted by the Autonomy Acts of 1905, it was provided that:

The Lieutenant Governor, by and with the consent of the Council or Assembly, as the case may be, shall pass all necessary ordinances in respect to education, but it shall therein be always provided that a majority of ratepayers of any district or portion of the North-West Territories may establish such schools therein as they may think fit and make the ne-

<sup>&</sup>lt;sup>1</sup> Cf. Weir, Separate School Law in the Prairie Provinces, p. 126. <sup>2</sup> F. S. "The School System in Canada," The Month, vol. 108, p. 175.

cessary assessment and collection of rates therefor; and further, that the minority of ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein and in such latter case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessment for such rates as they may impose upon themselves in respect thereof.3

No attempt was made by the Legislative Council of the North-West Territories for some years to establish a regular system of education called for by this section. To encourage the establishment of schools, the Dominion Government during the session of 1872 provided for the "Educational Endowment" of the North-West Territories. This Act, which made provision for the assistance of education, reads as fol-

"And whereas it is expedient to make provision in aid of education in Manitoba and the North-West Territories, therefore Sections 11 and 29 in each and every surveyed township throughout the extent of the Dominion lands shall be and are hereby set apart as an endowment for the purposes of education." Notwithstanding the assistance afforded towards the establishment of schools through this endowment, still "the State avoided the responsibility for education. It was, however, persuaded to make 'grants in aid' such as the grant of \$300 in 1877 towards the support of the bilingual school at. St. Albert." 5 These grants, however, were not general in their application. Very few schools were assisted in this manner.

The first steps taken by the civil authority, since the organization of the Territories, for the support of schools, which was of a general character, were made in 1880, when, on the recommendation of the Lieutenant Governor of the Ter-

<sup>3</sup> North-West Territories Act, 1875, Section 11. 4 Dominion Lands Act. 35 Victoria, chap. 23, section 22.

<sup>5</sup> Short and Doughty, Canada and Its Provinces, vol. 20, p. 451.

ritories, an Order in Council was passed by the Canadian Federal Government by virtue of which the Territorial Government was permitted to apply to the support of Education part of the subsidies voted annually by the Canadian Parliament for the administration of the Territories. However, no attempt was made as yet to provide for the educational needs by setting up a territorial system of schools. In December of the same year the Lieutenant Governor announced that the schools operating in the Territories might receive an allowance on complying with the conditions embodied in the following circular:

#### GOVERNMENT AID TO SCHOOLS

His Excellency the Governor-General in Council having by order, dated 4th November, 1880, agreed to grant aid to schools in the North-West Territories, by paying one-half of the salary of the teacher of any school in which the minimum daily attendance is not less than fifteen pupils, I am directed by the Lieutenant-Governor to intimate that His Honor will, until further notice, be prepared to pay quarterly or half-yearly, one half the salary of any teacher in the Territories, on the following conditions:

1st. That a quarterly register of the school be forwarded to this office, showing the names, age and studies of the children taught, not being Indians whose education is otherwise aided by the Dominion Government, and that the average attendance is not less than fifteen pupils.

2nd. That on some part of the register there be written a certificate signed by the teacher and two of the parents whose children are attending said school, declaring that to the best of their knowledge, they believe the register to contain a true statement of the attendance at the school.

3rd. That accompanying the register there be forwarded to this office a certified copy or statement of the agreement with the teacher, showing by whom he or she was engaged,

and the amount agreed to be paid as solely for services as teacher.

A. E. FORGET,

Secretary to the Lieutenant-Governor.

Lieutenant-Governor's Office,

Battleford, 14th December, 1880.

P. S.—Blank Registers can be had on application to the above office.

A.E.F.

For several years a few Catholic schools, as well as those of other religious denominations, were able to avail themselves of the educational subsidy provided by the Federal Government. The matter of establishing schools was left, however, almost entirely in the hands of the various churches. "The mission schools were practically the only educational institutions in the North-West till 1884, when the Government of the North-West Territories, became responsible for the administration of education." It was in this year that the first of the Territorial schools were opened at Edmonton and Calgary. In the former place, a school supported by voluntary subscription had been in operation for three years. Calgary, some time previous to 1884, a similar school had been opened in a log building known as Boynton Hall. This was about twenty years after the Catholic schools had been opened at Edmonton and at the not far distant town of St. Albert.

Catholic schools had also been opened at Ile à La Crosse in 1860, at Lac St. Ann as early as 1859, or twenty-five years prior to the organization of the first of the Territorial schools. An attempt had been made in the year 1883 to provide for a regular educational system, but the North-West Council refused to sanction Frank Oliver's Education Bill. The Hudson's Bay Company, fearing it would have to bear a large part of the financial upkeep of schools, strenuously opposed the movement. However, in the following year the first Ordinance relative to education enacted in the North-West Terri-

Short and Doughty, op. cit., p. 480.

tories received the sanction of the North-West Council. This Act, known as "An Ordinance Providing for the Organization of Schools in the North-West Territories," making provision for a school system very similar to that of the Province of Quebec, received the unanimous approval of the North-West Council, then composed of thirteen Protestants and two Catholics. The territorial school system was to be administered by a Board of Education, composed of twelve members, six of whom should be Protestant and six Catholics, divided into two distinct sections. These two sections, sitting together, had but general powers; but sitting separately, the scope of their jurisdiction was very extensive. Under section 5 of the Ordinance the duty of each section was prescribed as follows:

It will be the duty of each section:

- (1) To have under its control and direction the schools of its section, and to pass, from time to time, the regulations that it will think fit for their general government and discipline, and for the execution of the dispositions of the present Ordinance.
- (2) To provide for the examination and the classification of its teachers, and to adopt measures to recognize certificates obtained elsewhere, and to cancel all certificates for good reasons.
- (3) To choose all books, maps and spheres that will be used in the schools under its control, and to approve the plans for school buildings: provided always that, when the books relate to religion and moral, the choice made by the Catholic section of the Commission be subject to the approbation of the competent religious authority.
- (4) To appoint inspectors who will remain in charge at the will of the commission by which they have been appointed.8

Practically absolute freedom in the establishment, opera-

<sup>7</sup> Memorial of Archbishop Taché on the School Question, p. 61.

tion and management of their schools was accorded to Catholics by this first Territorial educational legislation. The Ordinance not only recognized the rights of Catholics to establish separate schools, but it also sanctioned the principle of the Quebec system, that to them alone belongs the exclusive right to govern such schools. Provision was made in the Ordinance for the erection of both separate and public school districts. A public school district could not exceed thirty-six square miles in area or nine miles in length.

"Section 25," which made provision for the establishment of separate school districts, reads as follows:

In conformity with the dispositions of the 10th article of the North-West Territories Act of 1880, relating to the establishment of separate schools, any number of ratepayers domiciled in the limits of any public school section or in two sections, or more, adjoining public school section or in two sections, or more, adjoining public school district, and others on adjoining lands not included in said districts, can be erected in separate school district by proclamation of the Lieutenant Governor with the same rights, powers, privileges, obligations, and mode of Government as precedingly stipulated in the case of public school district.

Schools whether public or separate were to be supported both by taxation and by Government grants. Catholics were to be left free to support their own schools. "Section 131" decreed that "In no case would a Catholic be obliged to pay taxes for a Protestant school, neither would a Protestant to a Catholic school." Formal religious instruction was permitted "only during the last hour of the afternoon session." When later, the afternoon school session was reduced from three to two and one-half hours, the period for religious instruction was limited to the last half-hour. If the trustees so desired, the school might be opened with the Lord's prayer.

Under the Ordinance of 1884, the amount of the financial assistance extended to the schools, whether separate or public,

was made dependent upon the number of school days, attendance of pupils, and the amount of the teacher's salary. In the following year an amendment to this section made the amount of such grants depend also on the grade of the teacher's license, the inspector's report, and the advancement of the pupils taught.

The Educational system, as instituted by the Ordinance of 1884, gave to each section of the Board almost full and independent powers in the matter of the organization and administration of their respective schools. All Catholic schools were placed under the control of Catholics themselves. In this arrangement it approximated that guaranteed to Quebec under "Section 93" of the Federal Constitution. However, largely owing to financial difficulties, the Board of Education, as provided for by the Ordinance, was never instituted.

As the years went by, and the Protestant percentage of the population of the North-West Territories increased, amendments were introduced limiting the jurisdiction of the separate sections of the Board, aimed particularly, it would seem, at Catholic control of their schools. The first limitation took place, after considerable opposition, in the amendment of 1885, which provided for the establishment of a Board of Education consisting of five persons, two Protestants and two Catholics, under the presidency of the Lieutenant Governor. Appointments to these positions were to be made by the Lieutenant Governor in Council, and two of the members appointed were to be chosen from the Council. This placed the management of educational affairs largely under the control of the Government of the day, and, as time went on and the Protestant population of the Territories increased, it resulted to an extent in placing the educational rights of the Catholic minority under the control of the Protestant majority.

Under the Amendments of 1885, the general powers of the Catholic section, of the Board of Education as conferred on

it by the Ordinance of 1884 were curtailed by transferring to the full board, presided over by the Lieutenant Governor, the appointment of inspectors, examination of teachers, and general organization of schools. However, the control and management of Catholic schools, the prescribing of textbooks, and the granting and cancelling of teachers' licenses, were left to the Catholic membership of the board.

With the passage of the Educational amendments of 1885, the Lieutenant Governor took steps to put the Ordinance in operation. "Immediately after the date of its adoption, in the month of December, 1885, Messrs. Secord and Marshallsay, and the Hon. Judge Rouleau, and the Rev. Father Lacombe, were nominated as members respectively of the Protestant and Catholic sections of the Board of Education."10 Two years later further restrictions were introduced. 1887, an amendment to the school Ordinance provided for a "board of examiners consisting of an equal number of Catholics and Protestants," who were empowered to conduct all examinations for granting licenses to teachers within the The original denominational sections of the Territories. Board of Education still had the power to prescribe the textbooks in history and science or to exact examinations in any additional subjects from their own candidates, but otherwise the subjects for examinations for teachers, whether Catholic or Protestant, were to be identical. A further curtailment of the Catholic power in this matter was effected in 1891, when the Lieutenant Governor in Council became responsible for both the appointment of inspectors and the licensing of all teachers.

About this time sweeping changes, which came to be reflected in the north-west territorial educational legislation,

<sup>9</sup> Cf. Short and Doughty, op. cit., vol. 20, pp. 455, 456; Memorial of Archbishop Taché on the School Question, p. 62.

<sup>10</sup> Memorial of Archbishop Taché on the School Question, p. 62.

had been effected in the Manitoba school system. The separate school system in operation since 1872, the perpetuation of which it was thought was guaranteed to Catholics by the Provincial Constitution, was, in spite of the vigorous protests of the Catholic minority, abolished on March 23, 1890, by an Act of the Manitoba Legislature, and a "non-sectarian" provincial school system created. "The agitation that swept away the minority rights in Manitoba made itself felt in the North-West also, and resulted in legislation restrictive of separate schools." The sweeping character and the effectiveness of the anti-Catholic agitation centred in Manitoba was demonstrated in the North-West Territories in the year 1892, when the educational Ordinance of 1884 was radically amended.

On December 31, 1892, the Legislative Assembly of the North-West through "An Ordinance to Amend and Consolidate as Amended the Ordinance Respecting Schools," repealed all previous legislation relating to education. By this Act, the government of the day became directly responsible for the administration and management of all separate and public schools. From 1892 the religious interests ceased to have a direct influence upon the management of the schools. The separate school board was abolished, and nearly all the rights of the Catholic section were withdrawn. In place of the board there was set up a "Council of Public Instruction" consisting of "an executive of four persons (two Protestants and two Catholics) appointed by the Lieutenant Governor in Council, one of whom, to be nominated by the Lieutenant Governor in Council, shall be chairman." It was provided. that "the appointed members shall have no vote." 12 function was purely advisory with regard to text-books,

<sup>11 &</sup>quot;The School System in Canada," The Month, vol. 108, p. 176. 12 No. 22, Section 5.

િ

courses of study, licensing of teachers, and inspection of schools.

One of the first regulations of the Council of Public Instruction was to provide for compulsory attendance of all teachers, including Catholic Sisters, at the Territorial Normal School. It also prescribed a uniform system of academic training and licensing for all teachers, of inspection, of textbooks and examination standards in all schools. text-books were permitted only as supplementary readers. All religious instruction was forbidden "from 9 a.m. to one half hour previous to the closing of schools in the afternoon, after which time any such instruction permitted or desired by the trustees may be given." 13 This measure aroused Catholic dissatisfaction. Unsuccessful efforts were made to have the obnoxious legislation amended. An appeal was made to the Governor General in Council at Ottawa in December, 1893, "to disallow, repeal, or annul the Ordinance of 1892," 14 but the appeal was not granted.

Nor did the limitation of Catholic rights with regard to education end here. By an ordinance of 1901, which amended and consolidated all existing educational legislation, it was provided that:

The minority of ratepayers in any district, whether Protestant or Roman Catholic, may establish a separate school therein; and in such case the ratepayers establishing such Protestant or Roman Catholic school, shall be liable only to assessments of such rates as they impose upon themselves in respect thereof.

After the establishment of a separate school district under the provision of this Ordinance, such separate school district and the Board thereof shall possess all rights, powers, privileges, and be subject to the same liabilities and method

<sup>13</sup> North-West Territories School Ordinance 1892, Section 85.

<sup>14</sup> Macbeth, R. G., The Romance of Western Canada, p. 296.

of government as is herein provided in respect of public school districts.

Any person who is legally assessed or assessable for a public school shall not be liable to assessment for any separate school established therein.<sup>15</sup>

By this Act the boundaries of a separate and public school district were made coterminous. This enactment made the organization of a Catholic school in a district sparsely settled by Catholics a very difficult, if not impossible, matter. Under the earlier legislation a separate school could be organized where the Catholics were in the minority, within the confines of two or more public school districts. But under the Ordinance of 1901 a separate school had to be organized within a single school district or not at all. As Catholics in most cases formed the minority in each school district, and as in many instances the number of Catholics in each school district was very small, it became practically impossible, except in a very few instances, to organize and conduct a Catholic separate school. In this manner the Act, indirectly, but in a very effective manner, to a large extent precluded the establishment of Catholic separate schools.

The administration of all schools, whether Catholic or Protestant, was placed under the control of a Commissioner of Education, who was also a member of the Executive Council. The management and control of the Department of Education was placed in his hands. An Educational Council, composed of five members, three Protestants and two Catholics, with purely advisory functions, was set up. Its duties consisted in the "consideration of all general regulations respecting the inspection of schools, the examination, training, licensing, and grading of teachers; courses of study, teachers' institutes, text and reference books, and such other matters as may be referred to it by the Commissioner." (Sec. 10). It might "also consider any question concerning the



<sup>15</sup> Chapter 29, sections 41, 45.

educational system of the Territories, as to it may seem fit, and report thereon to the Lieutenant-Governor in Council." Under the Ordinance the power of this Council was merely advisory. The power to accept or reject such advice lay entirely with the Commissioner of Education appointed by the Government, which was largely Protestant. According to the Protestant educational authority Dr. Weir, "the only vestige of the former Board of Education, with its Protestant and Roman Catholic sections, was the educational council composed of two Roman Catholics and three Protestants whose powers were advisory only." 16

In thus abolishing the denominational rights regarding separate schools, conferred by the early educational legislation, the North-West Territories' Legislative Assembly clearly outstepped its rights. The case never found its way to the Privy Council for final judicial decision, yet Sir Wilfrid Laurier, as Premier of Canada, expressed his opinion in June, 1905, that "there can be no doubt whatever that the legislation which has been passed in the North-West Territories, and which is now in force, has been somewhat at variance with the principles laid down by the organic law of 1875." 17

In this way practically every vestige of the original rights of Catholics with regard to the organization and management of separate schools was abolished. According to Father Leduc, one of the members of the Catholic Board, abolished by the 1901 Ordinance: "About all that remained intact was the name." This, also, was the contention of Archbishop Tache and Bishop Grandin, who, with Father Leduc, strongly protested against this invasion of their guaranteed rights and endeavored in every possible way to uphold the Catholic claim to real separate schools.

18 Hostility Unmasked, p. 2.

<sup>16</sup> Separate School Law in the Prairie Provinces, p. 53.

<sup>17</sup> Canada Legislative Debates, Hansard, p. 8052.

It was permitted by the Act to open Catholic schools with the recitation of the Lord's Prayer, but no other prayer or religious instruction was allowed from the opening hour of school until one-half hour previous to its closing in the afternoon. After that time any such instructions as would be permitted or desired by the local school board might be given, but attendance at these religious instructions was not made compulsory.

All attempts at having the obnoxious educational legislation repealed by the Legislative Assembly having failed, the Catholics of the Territories sent to the Federal Government numerous petitions asking for the immediate repeal of the school Ordinance. The Canadian Government, however, refused to take action in the matter.

During the next few years the separate school question formed the subject of much bitter controversy. The issue finally found its culmination and settlement in the Autonomy Acts of 1905, by which the two Provinces of Alberta and Saskatchewan were created and added to the Dominion.



#### CHAPTER XJ

# CATHOLIÉ SCHOOLS AND THE PROVINCIAL CONSTITUTIONS

For some time past there had been a growing demand on the part of some of the settlers of the North-West Territories for provincial organization. Heading the list of the seven formal claims presented in 1885 by the Metis to the Canadian Government, was the demand for the division of the North-West Territories into Provinces. The ignoring of the petition of the half-breeds by the Canadian Government had led to the North-West insurrection. The uprising had finally been suppressed, but the demand for the conversion of the Territories into Provinces became more insistent.

In the session of 1905, the Canadian Government, under the leadership of Sir Wilfred Laurier as Premier, undertook to satisfy these demands by the creation of two new Provinces. The British North America Act, 1871, had empowered the Parliament of Canada, "from time to time to establish new Provinces in any Territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any Province, and for the passing of the laws for the peace, order and good government of such Province." Under this section, the Canadian Government undertook to draft the con-

<sup>1</sup> Hughes, K., Father Lacombe. p. 292.

<sup>&</sup>lt;sup>2</sup> Section 2.

stitutions for the Provinces about to be organized. The educational controversy could no longer be set aside by the Federal authorities. In the Constitution of the North-West Territories, "the Parliament of 1875, deliberately, unanimously and with the intention of settling the question, had then made provision for separate schools." 3 It was in order "to guard against any encroachment similar to that threatening the Roman Catholics of New Brunswick in 1870 (and carried out in 1871) that the words 'or practice' were inserted in the Manitoba Act of 1870." In practice Catholic schools then formed a part of the regular school system of Manitoba, although a separate school system had not been legally established. Yet both the Federal and the Provincial constitutional safeguards failed to accomplish their intended purpose. Manitoba had, through legislation in 1890, abolished the separate school system and established a "non-sectarian" provincial public school system in its place, and the Privy Council had decided in favor of the constitutionality of such legislation.

The North-West Territorial Assembly by its Acts of 1892 and 1901, which, in the mind of Dr. Weir, were "of doubtful validity," and which, according to Premier Laurier, were "somewhat at variance with the principles laid down by the organic law of 1875," had "radically curtailed the separate school privileges," and thus limited the rights of Catholics in the management and administration of their own schools under the provincial school system. The issue called for definite and just settlement by the Canadian Parliament.

In dealing with the question, one of two courses lay open to the Federal Government; to apply, without change, "Section 93" of the British North America Act, 1867, to the new Provinces, and if it guaranteed separate schools (a question

<sup>3 &</sup>quot;The School System of Canada," The Month," vol. 108, p. 177.

<sup>4</sup> Weir, op. cit., p. 27.

<sup>5</sup> Weir, op. cit., pp. 52, 53.

to be decided by the courts), well and good; if not, then the continued existence of separate schools would depend on the good will of the Provincial Legislature of each of the new Provinces; or to interpret and reinforce this provision so as to place the abolition of the separate school system beyond the power of the Provincial Legislature.

The Government, adopting the second course of action, drew up the Bill of the proposed provincial constitutions relating to education (Section 17) as follows:

- 1. The provisions of section 93 of the British North America Act, 1867, shall apply to the said Province as if, at the date upon which this Act comes into force, the territory comprised therein were already a Province, the expression "the Union" in the said section being taken to mean the said date.
- 2. Subject to the provisions of the said section 93 and in continuance of the principle heretofore sanctioned under the North-West Territories Act, it is enacted that the Legislature of the said Province shall pass all necessary laws in respect of education and that it shall therein always be provided (a), that a majority of the ratepayers of any district or portion of the said Province or of any less portion or subdivision thereof, by whatever name it is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor, and (b), that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and make the necessary assessments and collection of rates therefor, and (c), that in such a case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessment of such rates as they impose upon themselves with respect thereto.
- 3. In the appropriation of public moneys by the Legislature in aid of education and in the distribution of any moneys paid to the Government of the said Province arising from the school fund established by "The Dominion Lands Act," there shall be no discrimination between the public schools and the separate schools, and such moneys shall be applied to the support of the public and separate schools in equitable shares or proportion.

These clauses purposed to place the matter of education in the position given to it, as it was thought, by the North-West Territories Act of 1875 and which it had under the original Ordinance of 1884. Not only were the separate schools to be safeguarded by the new Provincial Constitution, but the restrictions imposed on Catholic schools by the various amendments to the Education Act of 1884 were to be set aside.

When Sir Wilfred Laurier, the Premier of Canada, brought into the House of Commons the bills providing for the erection and constitution of the new Provinces of Alberta and Saskatchewan, "the school question became in a twinkling the subject of agitation and acrimonious debate throughout the country." His proposals were greeted with a storm of indignation by those opposed to the separate school system. Immediately a violent agitation was set on foot throughout Canada to force the withdrawal of the school clauses. "Protests came from many quarters. Methodist ministers and Conferences, Presbyterian divines and Assemblies, public meetings and Societies, political Clubs and other bodies, joined in expressing vigorous antagonism to the separate school clauses of the measure."

It was objected that section 17 of the proposed legislation meant the restoration of the clerically controlled separate schools that had been abolished by the restricting Ordinances passed by the Legislative Council of the North-West Territories. It was also stated that the provision by which separate schools were to share in the proceeds of the land set apart for school purposes would empower Catholics to exact a proportionate share, if at any time the legislatures should allot a portion of these lands as an endowment for provincial universities.

<sup>6</sup> The Month, vol. 108, p. 176.

<sup>7</sup> Hopkins, The Canadian Annual Review, 1905, pp. 52, 53.

A most notable feature of the opposition was that the chief objection came, not from the North-West Territories "The most veheimmediately affected, but from outside. ment opponents of separate schools were not the people of the new Provinces who were directly concerned, but the citizens of Toronto and Ontario." Resolutions against the measure were passed by various Orange Lodges and by different Protestant organizations and denominations. The bill became the topic for frequent pulpit denunciations, particularly in the City of Toronto. From an Orange Lodge in the same quarter emanated a largely circulated petition to Parliament protesting principally against the Government's attitude on the separate school issue. Few protests were voiced against the "invasion of Provincial rights," but very little real opposition to separate schools manifested itself at this time in the territory embraced by the new Provinces. "As time passed on it was apparent that no wave of antagonistic feeling existed. General prosperity and speculations as to the harvest, followed by happiness over a bountiful result, probably left little time for thought and little inclination for any but a rosy view of political conditions."9

Some of the papers, even of different political views from that of the Federal Government, were most vigorous in their denunciation of the "Orange agitation" against separate schools so active throughout other parts of Canada. was true of the Calgary Herald (Conservative), the proprietor of which also published in The Globe of Toronto an interview by himself containing the following statement: "As to the school question, the present arrangement is working satisfactorily and as long as the Federal authorities leave things as they are, I apprehend that there will be no serious opposition from the intelligent portion of the électorate." 10

<sup>8</sup> The Month, vol. 108, p. 178.

<sup>9</sup> Hopkins, The Canadian Annual Review, 1905, p. 69. 10 February 24, 1905.

The resignation of Hon. Clifford Sifton from the Cabinet and a narrowly averted crisis within the Government, forced Sir Wilfred Laurier to adopt a compromising policy and to amend the bill, so as to provide for a limited "system of separate schools in which the text-books shall be the same as the national schools and in which the teachers must hold licenses from the educational department of the Province. The work of all schools," established under the amended section, should be, "practically the same except during the last half hour of the day, during which religious instruction might be given." On introducing the "amended section validating the Territorial Ordinance of 1901, the political storm subsided." 12

Mr. Borden, leader of the Conservative opposition party, not content with this compromise, proposed the following amendment:

That upon the establishment of a Province in the North-West Territories of Canada as proposed by the Bill No. 69, the Legislature of such Province, subject to and in accordance with the provisions of the British North America Acts, 1867 to 1886, is entitled to and should enjoy full powers of Provincial self-government, including power to exclusively make laws in relation to Education.<sup>13</sup>

With the introduction into the Autonomy Bills of the amended sections relative to education, most of the opposition subsided, as was made evident by the speeches following Mr. Borden's proposed amendment. In following the Opposition Leader, the Hon. W. S. Fielding, whose relations with the Federal Leader prior to this had been considerably strained, supported the amended section as introduced by the Premier. Waiving the constitutional aspect of the question, he frankly discussed the general problem of separate schools, which he

<sup>11</sup> Education, vol. 25, p. 530.

<sup>12</sup> Weir, op. cit., p. 56.

<sup>13</sup> House of Commons Debates, March 22, 1905.

declared to be the real issue in the minds of the people. "For myself," he said, "I do not like the principle of separate schools." But he realized that if they were to-day called on to protect the rights of a Catholic minority in the West they might in the future be called upon to protect the rights of a Protestant minority elsewhere. Roman Catholics deemed it a conscientious duty to combine religious and secular education, and there was more in the contention at the present day than there had been in the past. "Who shall say that to-day religious instruction receives as much attention in the homes of Canada, as it did in the days of our grandparents? We are living in a very rapid age, and I am afraid there is some room for the contention of our Roman Catholic brethren that religion will not be taught to the children of Canada unless the foundation of it be given to them in the schools." Mr. Fielding discussed at length the educational legislation of 1875, which, he pointed out, became law by a unanimous vote of the House of Commons. From the utterances of Sir John Thompson and Sir Alexander Campbell—the latter of whom described as its object "to establish and perpetuate in the North-West Territories the same system as prevails in Ontario and Quebec"-and from the remarks of others, he argued that there devolved upon the present Government a moral obligation to preserve and continue the system. With regard to the nature of the schools in the West he stated:

I take it for granted that if you have a school which is established by the public authorities, if the management of the school derives all its authority and privileges from a regulation of the Government of the State, if you have a system of schools under which the proper authorities of the State, or the Province, or Territory, as the case may be, themselves specify the school books, establish the course of study, provide for the inspection of the schools and for all the distribution of the money; if you have all these elements, then I say you have a system of state-created, state-managed and state-sup-

ported schools. Every one of these conditions exist to-day in the public school system of the North-West Territories.14

The only difference between the minority and majority schools, he stated, was that in the former the practice existed of half-an-hour's religious instruction after school hours. He concluded his address by urging acceptance of the compromise and thus the avoidance of useless and irritating controversy.

Even Dr. T. S. Sproul, Grand Master of the Orange Order, who followed Mr. Fielding on March 23rd, was distinctly moderate in his expression. He was followed by Hon. W. Patterson and Mr. F. D. Monk. The latter, though one of Mr. Borden's prominent lieutenants in the Province of Quebec, differed from the stand taken by his Leader, deprecating "the needless agitation and mischievous utterances in connection with the question, and argued at length in favor of religious instruction in the schools." <sup>15</sup>

Mr. Sifton followed on March 24th, creating a sensation by sustaining in a clear, concise, and clever speech, the amended section. After explaining that the Bill was in the main satisfactory, he proceeded to deal with the separate school issue which had impelled his own retirement from the Federal Cabinet. Viewing the issue constitutionally, he agreed with neither Laurier nor Borden, but, he stated, he did agree with Mr. Fielding in caring more for the character of the schools than for the technical rights involved. He proceeded to define the "clerically controlled schools," which were established under the Act of 1875. He traced the gradual curtailment of separate school privileges by the Territorial Legislature up to 1892, when the dual system was swept away and the existing system of public schools practically established. With reference to the amended section, he feared that the original

<sup>14</sup> House of Commons Debates, March 22, 1905.

<sup>15</sup> Hopkins, C., op. cit., p. 78.

clause might be construed by the Courts to compel or permit a re-instatement of the clerical school conditions created under the Act of 1875, and which had been abolished by the Territorial Legislature. He feared, besides, that the financial clause would compel a division of money for all time to come between Protestant and Catholic institutions, even up to and including University grants. For these reasons, he was forced to retire from the Government.

However, under the amended clause, as understood by him, just two things were conserved and perpetuated—the right to separate schools in name and in building and the right of a Protestant or Catholic minority to have religious instruction in such schools from 3.30 to 4 p.m. In conclusion Mr. Sifton stated his attitude on the amended Clause as follows:

There is a certain distance that I am prepared to go in the way of compromise; I have so expressed myself to my Right Honorable friend the Prime Minister. To the extent which is embodied in the proposition before this House I am willing to go. I am willing to go that far because I believe that the essential principles of a first-class, thoroughly national school system are not impaired; and the taint of what I call ecclesiasticism in schools, and which in my judgment always produces inefficiency, will not be found in the school system of the North-West under this legislation—unless the people of the North-West choose to have it, in which case it is their business and not ours.<sup>16</sup>

Mr. Scott, representing the constituency of Regina, one of the ablest of the representatives of the North-West Territories, and afterwards the first Premier of Saskatchewan, although a Protestant, stood out boldly for Catholic rights. In a speech on the question, delivered in the Canadian Parliament on March 31, 1905, he made the following statement:

I want to say, speaking as a Protestant, not as a member

<sup>16</sup> House of Commons Debates. March 24, 1905.

of the minority, that in view of the history of the matter, I would be ashamed of myself as a Protestant and ashamed of the Protestant majority, if we would wish now, merely because we have the power, to deny the very thing which we as Protestants stood out for when a Protestant minority was effected.<sup>17</sup>

It was rather expected by the Federal Parliament of 1875, according to Mr. Scott, that the minority of the North-West Territories would be Protestant, and it was believed that provision had been made in the North-West Territories Act of 1875 for a separate school system somewhat along the Quebec plan, where the Protestant minority is accorded full control of its own schools. "All that we are professing to do, and all that we are asked to do, is to put the people of the Territories in an equitable position compared with the other Provinces." He favored the amended Clause for the following reasons:

- 1. It removes all uncertainty.
- 2. It respects the minority conscience without violating any sound public principle.
  - 3. It provides security against agitation in future.
- 4. It perpetuates a system which has in practice proved to be eminently satisfactory to all classes.
- 5. It means coercion in no sense or adaptation of the word, because it merely guarantees what would be continued by the almost universal will of the Provinces.
- 6. It continues a system preferable in its practical working out to the public school system of Manitoba where a minority have a grievance which interested parties are constantly able to exaggerate and who continue to chafe under what they believe to be an infringement of their rights.
- 7. It furnishes a possible common ground for action by the members of this House and thus maintains unity. No common action was possible either upon the original Sec-

<sup>17</sup> Op. cit., Hansard, p. 3614.

tion 16 or upon the amendment of the Leader of the Opposition.

S. More than all, it is satisfactory to me as a citizen of, and one of the majority in, the North-West, because it not only reasonably secures minority rights, but it absolutely secures majority rights against such invasion as was attempted by Parliament in 1896 in the case of Manitoba.<sup>18</sup>

In a letter to a correspondent, Mr. Scott stated that "the North-West Territories have unquestionably had separate schools for thirty years, and it is clear to me that either Protestant or Roman Catholic minorities, where they exist in school districts, if deprived now of the right to separate schools, would be in a position to hold that the spirit of the Confederation agreement had been violated." 19

Mr. H. B. Ames, of Montreal, expressed a similar opinion in giving the reasons as a Protestant Conservative for supporting the Government's measure, stating among other things: "I believe we would be breaking faith with the minority, whom it is the duty of Parliament to protect, if we should decide to take away the guarantee they have now for the perpetuation of the special privileges they now enjoy." 20

One of the last of the many speeches, during the debate on the question which "occupied no less than ten weeks during which there were twenty-eight solid days of discussion," was that of J. H. Sinclair, the Protestant representative of Guysborough, Nova Scotia. His speech is important in that it presents a lucid summary of his chief reasons for supporting the Educational Clause:

First. Because it is an honorable and fair compromise of a very difficult and delicate question, and while it satisfies to some extent the religious convictions of forty-one per cent. of the people of Canada, it contains nothing that should be

<sup>18</sup> Hopkins, The Canadian Annual Review, 1905, p. 81.

<sup>19</sup> Op. cit., p. 68.

<sup>20</sup> House of Commons Debates, April 13, 1905.

in any sense offensive to the religious views of the remaining forty-nine per cent.

Second. Because the school system that we are perpetuating is a school system that was adopted about thirteen years ago by the people of the Territories themselves; that system has worked satisfactorily ever since; and it may be fairly said to be an expression of the will of the people of the Territories.

Third. I am opposed to the amendment of the Leader of the Opposition because the effect of it is to leave the whole matter in a state of uncertainty, to give rise to disputes and litigation and to destroy the peace and retard the progress of the new Province.

Fourth. I am opposed to the amendment of the Leader of the Opposition because it is a sheer evasion of the question at issue. If the words "at the union" are to be held to mean 1905, then by passing this Amendment we should be fastening on the new Province the system of clerical schools that the people abolished in 1892, a system to which I am absolutely opposed.

Fifth. I am in favor of the Educational clauses of this bill because they give an opportunity to both Protestants and Catholics who hold religious convictions on this question to give religious instruction to their children for half-an-hour at the close of each school day without interfering with the national character of the schools.

Sixth. I support the Bill because it definitely settles this question once and for all, and prevents the introduction into these Western Provinces of those painful racial and religious quarrels that have disturbed the peace of the older Provinces of Canada.

Seventh. I support the Bill because the schools to be established under this regulation must of necessity be Free Public Schools using only the authorized text-books, taught by regularly licensed teachers, inspected by the Public School Inspector, and in every respect under complete public control.<sup>21</sup>

The much contested Educational Clause finally passed its second reading in the House on May 3, 1905, by one of the largest majorities on record. However, as the constitutional-

<sup>21</sup> House of Commons Debates, April 28, 1905.

\*

ity of the legislation continued to be questioned, the Federal Minister of Justice, Mr. Fitzpatrick, presented to the House on May 15th, a very carefully prepared opinion on its constitutional aspect. His conclusions are summarized as follows:

- 1. Section 93 of the British North America Act expressly limited the power to make laws in relation to Education by the right to denominational schools possessed by any class of persons under the law at the time of Union; by the powers, privileges, and duties conferred upon separate schools and school trustees (Roman Catholic or Protestant) in Ontario and Quebec; by the right of appeal in any Province to the Governor-General-in-Council from any act or decision of any Provincial authorities affecting any right or privilege of the minority with regard to separate schools existent at the Union or established thereafter.
- 2. Mr. Haultain's Draft Bill asked Parliament to make applicable to the new Province "all the provisions of the British North America Act applicable to all the Provinces originally except where inconsistent with the expressed provisions of the Bill." Section 93 of the British North America Act would, therefore, have been applicable to the new Provinces, including the preservation of "any right or privilege with respect to denominational schools which any class of persons had by law in the province at the Union."
- 3. The effect of Section 16 of the Autonomy Bill would be no greater than the effect of the introduction of Section 93 of the British North America Act by Section 2 of the Territorial Bill, and Clause 16 was only deemed necessary to remove doubt that had been expressed as to the meaning of the words "province" and "at the Union," and to secure to the schools, whether public or separate, of the minority, the Government aid which in practice they have always received; and which was necessary to place these schools "in a position to play their necessary part in the scheme of national education."
  - 4. The rights and privileges which the proposed substitute Clause 16 preserves to the minority, whether Protestant or Roman Catholic, in a Public School district, appear to be these:

- (1) Right of separation—by the Ordinance—common to i'rotestant and Roman Catholics alike.
- (2) Half-hour religious instruction—by Ordinance—to Protestants and Roman Catholics alike; common to Public and Separate schools.
  - (3) First and second Catholic readers—by regulation.
- (4) Right to elect trustees who choose the teachers, by Ordinance; common to all schools.<sup>22</sup>

In the Senate the measure provoked keen discussion, but finally received a vote of approval. The Section, as it finally appeared in the Constitution of the new Province as embodied in the Alberta and Saskatchewan Acts, reads as follows:

Section 93 of the British North America Act, 1867, shall apply to the said Province, with the substitution for paragraph (1) of said Section 93 of the following paragraph:

- (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to Separate Schools which any class of persons have at the date of the passing of this Act, under the terms of Chapters 29 and 30 of the Ordinances of the North-West Territories passed in the year 1901 or with respect to religious instruction in any Public or Separate school as provided for in the said Ordinances.
- (2) In the appropriation by the Legislature, or the distribution by the Government of the Province of any money for the support of schools organized and carried on in accordance with said Chapter 29 or any Act passed in amendment thereof, or in substitution therefor, there shall be no discrimination against schools of any class described in the said Chapter 29.
- (3) Where the expression "by law" is employed in paragraph 3 of the said Section 93 it shall be held to mean the law as set out in the said Chapters 29 and 30, and where the expression "at the Union" is employed in the said para-

<sup>22</sup> Hopkins, C., The Canadian Annual Review, pp. 108, 109.

graph 3, it shall be held to mean the date at which this Act. comes into force.<sup>23</sup>

The Alberta and Saskatchewan Acts as amended after, passing both Houses of the Canadian Parliament, received the Royal Assent, July 20th, and became effective on September 1, 1905. These Acts place the question of the continued existence of separate schools for all time beyond the jurisdiction of the Provincial authorities, the existence of such schools being definitely guaranteed by the Constitutions of the new Provinces, the amendment of which does not fall within the power of the Provincial Legislature or judiciary.

<sup>23</sup> Alberta and Saskatchewan Acts, 1905, Section 17; Kennedy, Documents of the Canadian Constitution, p. 703.



#### CHAPTER XII

## CATHOLIC SCHOOLS AND PROVINCIAL LEGISLA-TION ÍN ALBERTA

With the passing of the Alberta Act, 1905, George H. V. Bulyea, who had been a member of the Executive Council of the Territories since 1897, received the appointment as Lieutenant Governor of the Province of Alberta. He, in turn, on September 2nd, called upon Alexander Cameron Rutherford, the recently appointed Leader of the Liberals of Alberta and a member of the late Legislature, as Premier to form a Government. In the Cabinet of the Government of the new Province, which received the approval of the Lieutenant Governor, Premier Rutherford himself assumed the office of Minister of Education. On the appointment of the Provincial Cabinet, following the usual procedure, appeal was made to the electorate for its confirmation of the Government appointments and approval of the Liberal policy.

In the provincial elections that followed, Section 17 of the Alberta Constitution, which provided for the continuance of the separate school system, formed the chief subject of the political campaign. Speaking to the *Toronto Star*, on Dec. 6th, the Hon. C. W. Cross, Attorney-General, stated that there was "only one issue in the elections—the school question." The-Conservatives, with R. P. Bennett of Calgary as leader, energetically attacked "Section 17," demanding that the Pro-

<sup>1</sup> Hopkins, The Canadian Annual Review, 1905, p. 241.

vince be given, without any Federal restrictions, complete control of the matter of education. They promised, if elected to office, to have the validity of the restrictive educational clause, of the new Constitution, tested in the supreme courts of the Empire. Mr. W. A. Griesbach, the Conservative candidate for Edmonton, the Capital City of the Province, even went so far as to propose the complete abolition of separate The Liberal party, on the other hand, led by the Honorable A. C. Rutherford, representing Strathcona, adjoining the Capital City, defended the Alberta Act with its provisions for a separate school system as being best calculated to the interests of the Province.

The result of the elections, held on November 9, 1905, was an overwhelming victory for the Rutherford Government.2 Only two of the Conservative candidates were elected, Mr. Bennett, leader of the party, being among the defeated candidates. It was a veritable triumph for the separate school issue. "In an interview at St. John, N.B., on Dec. 23rd, Mr. R. P. Bennett gave the school question credit for much of the result owing to the Roman Catholic interest in the issue." The Conservative candidate for Edmonton, who had advocated the total abolition of separate schools, was defeated by a larger majority than any other candidate in the Province, although his constituency was strongly Protestant. In this way Protestants and Catholics alike endorsed Section 17 of the Alberta Act, perpetuating the existence of separate schools. According to the statement of Premier Rutherford. the Liberal Party in their endorsement of the separate school system were sustained by "seventy per cent. of the total vote cast throughout the Province."4

Provincial autonomy brought with it no radical changes so far as the administration of educational matters was con-

Weir, op. cit., p. 101.
 Hopkins, op. cit., p. 241.
 Manitoba Free Press, Nov. 24, 1905.

cerned. It has been shown how an attempt to provide for a system of separate schools based on the ideal plan operating in the Province of Quebec had been frustrated. Section 17 of the Alberta Act, while guaranteeing the continued existence and the financial support of separate schools and safeguarding the minority rights for all time against further invasion or curtailment by the Provincial Legislature, left matters pretty much where they stood after the amendments had been made in 1901 to the School Ordinance of the North-West Territories. However, as matters stand since the establishment of provincial rule, there are guaranteed to the Catholics or the religious minority of any school district by both the Federal and the Provincial Constitutions:

- (a) The right to establish separate or denominational schools.
- (b) The right to collect taxes from the members of the religious minority, and to share in the public or provincial grants for educational purposes, as well as the right to invoke State aid in the collection of taxes necessary for the support of such schools.
- (c) The exemption from taxation for the support of other schools.
- (d) The right to teach in such schools the religious tenets of their own Church.
- (e) The right to Catholic representation of at least two of the five members constituting the Provincial Educational Council.

Under the educational system at present in operation within the Province, sections 3 and 4 of the amended School Ordinance of 1921, which are identical with sections 3 and 4 of the School Ordinance of 1901, provide for a Department of Education to which is entrusted "the control and manage-

<sup>&</sup>lt;sup>5</sup> See Appendix for Sections of the Ordinance bearing particularly on separate schools.

ment of all kindergarten schools, public and separate schools, normal schools, teachers' institutes and the education of deaf, deaf-mute and blind persons."

The Department of Education itself is presided over by a member of the Provincial Executive Council styled the Minister of Education who, with the approval of the Lieutenant Governor in Council, has power:

- 1. To make regulations of the department.
- (a) For the classification, organization, government, examination, and inspection of all schools hereinbefore mentioned;
- (b) Fer the construction, furnishing and care of school buildings and the arrangement of school premises;
- (c) For the examination, licensing and grading of teachers and for the examination of persons who may desire to enter professions or who may wish certificates of having courses of study in any school;
- (d) For a teachers' reading course and teachers' institutes and conventions.
- 2. To authorize text and reference books for the use of the pupils and teachers in all schools hereinbefore mentioned as well as such maps, globes, charts and other apparatus and equipment as may be required for giving proper instruction in such schools.
- 3. To prepare a list of books suitable for school libraries and to make regulations for the management of such libraries.
  - 4. To make due provision for the training of teachers.6

Under the educational legislation, Catholic schools, whether public or separate, are administered under the general regulations of the Provincial Department of Education. The courses of study and text books of the schools are such as are determined by the Department of Education. Provision is made by the Department for the optional use of Catholic Readers in Catholic schools. All teachers conducting Catholic schools under provincial control are obliged to fulfil the re-

c Cap. 29, Section 6.

quirements set by the Department as to academic and professional training, and without provincial certification no Catholic teacher is permitted to teach in any of the Catholic schools, whether separate or public, within the provincial jurisdiction. All such matters come under the control of the educational department presided over by the Minister of Edu-. cation.

In the administration of his duties the Minister of Edu- 3. cation is assisted by a Deputy Minister of Education and a staff of "such officers, clerks and servants as are required for the proper conduct of the business of the department and for the purpose of this Ordinance," appointed by the Lieutenant Governor in Council. He is also assisted by an "Educational Council consisting of five persons, at least two of whom shall be Roman Catholics, to be appointed by the Lieutenant Governor in Council." 8

The function of the Educational Council is chiefly advis-The Act provides that: ory.

All general regulations respecting the inspection of schools, the examinations, training, licensing and grading of teachers, courses of study, teachers' institutes, and text and reference books shall before being adopted or amended, be referred to the Council for its discussion and report. The Council shall also consider such matters as may be referred to it as hereinbefore provided or by the Minister and may also consider any question concerning the educational system of the Province of Alberta as to it may seem fit and shall report therein to the Lieutenant Governor in Council.9

Although this Educational Council has, according to law, only advisory powers in regard to educational matters, yet in actual practice it wields an influence tantamount to legislative functions, and since at least two of the five members constitut-

<sup>&</sup>lt;sup>7</sup> Op. cit., Section 3, (2). <sup>8</sup> Op. cit., Section 8. <sup>9</sup> Sections 10, 11.

ing the Council must be Catholics, the rights of the Catholics in educational affairs, as provided for under the Provincial Constitution are fairly well safeguarded. The tendency, since the inauguration of the present educational system under provincial control, has been to extend rather than to curtail Catholic educational rights.

In the matter of the organization of school districts, the Ordinance of 1901 (still in force) prescribes that after a public school district is organized, "the minority of ratepayers in any district may establish a separate school therein, and in such a case the ratepayers establishing such Protestant or Roman Catholic separate school shall be liable to assessment of such rates as they impose upon-themselves in respect thereof. \* In order that a separate school be established, it is necessary that three resident ratepayers of the same religious belief as the minority of the ratepayers of the district, whether Catholic or Protestant, petition the Minister of Education for the erection of such a separate school district. This must receive the sanction not only of the Department of Education, but also that of a meeting of the ratepayers of the district belonging to the same creed or religious belief as those demanding the establishment of a separate school. When a separate school board has been legally established, such a school district and board "shall possess and exercise all rights, powers, privileges and be subject to the same liabilities and method of government as is herein provided in respect of public school districts; any person who is legally assessed or assessible for a public school shall not be liable to assessment for any separate school established therein." 11

Under the educational legislation of the Province of Alberta Catholic schools may be either separate or public. As almost all of the separate schools actually in operation are

<sup>10</sup> Op. cit., Section 42, See Appendix, School Ordinance, 1901, Section 41.

<sup>11</sup> Op. cit, Section 45.

Catholic, the legislation concerning separate schools has consequently a practical bearing almost entirely on Catholic schools. By far the greater number of Catholic schools that exist in the Province of Alberta, however, are really "public schools." According to the provincial law in both Saskatchewan and Alberta, "in case a community is settled by Catholics, if a school is established it is called a public school." The board of such a school district is permitted by law to engage Catholic lay teachers or nuns as deemed advisable, provided such teachers fulfill the prescribed regulations as regards certification.

Where, as in this case, the Catholics are in the majority, the separate school established under the law becomes the Protestant school, while the public school of the district and the one that must first be established is the Catholic school. If Protestants so desire, they may send their children to such a public school; if, however, they do not care to avail themselves of the Catholic public school in a district predominately Catholic, they may, under the separate school law, establish a separate school district for themselves, elect their own school board, levy and collect taxes from the Protestants of the district, erect their own schools, and engage their own Protestant teachers for their separate school.

Very few Protestant separate schools have actually been established within the Province. According to the last report available only one such Protestant separate school is in actual operation in Alberta. Protestants where they are in the minority are generally content to avail themselves of the public school of the district, though under Catholic control. Where Protestants send their children to a Catholic school, such children are exempted from attendance at reli-

<sup>12</sup> Stockley, "The Canadian North-West School Question," American Catholic Quarterly Review, vol. 30, p. 484, 1905.

gious instruction, unless the parents or guardians desire otherwise.

Though Catholic separate schools are established in only ten towns and cities in the Province of Alberta,13 yet it would be fallacious to judge from that fact as to the number of Catholic schools actually in operation throughout the Province. The Catholic public schools operating under the provincial law are far in excess of the number of separate schools. In the Autumn of 1905 there were, according to the testimony of the Honorable J. A. Calder, the Minister of Education for the Province of Saskatchewan, and late Deputy-Minister of Education for the North-West Territories, "scores, yes, probably hundreds, of such districts (public school districts) in the Territories in which the majority of the ratepayers are Roman Catholics." 14 This statement was, in the mind of Dr. Weir, "perhaps equally applicable to conditions in Alberta." According to the eminent Catholic Historian of Western Canada, the Rev. A. G. Morice, O.M.I., in 1906, "Alberta and Saskatchewan had forty-one Catholic public schools besides ten separate schools." There are no statistics available at present as to the actual number of public schools that are really Catholic, but it is safe to say, that a considerable number of those which are classified in the educational reports of the Province of Alberta as public schools are actually Catholic schools. .

The maintenance of the schools of the Province, whether public or separate, Catholic or non-Catholic, is provided for by taxation and legislative grants. Sections 8, 9, 92, 93 and 94 of the School Assessment Ordinance deal in detail with the matter of taxation in districts where separate schools are es-



<sup>13</sup> Sixteenth Annual Report of the Department of Education of the Province of Alberta, 1921.

<sup>14</sup> Hopkins, The Canadian Annual Review, 1905, p. 243. 15 Separate School Law in the Prairie Provinces, p. 101.

<sup>16</sup> Canada and Its Provinces, vol. 11, p. 190.

tablished and provide for a division of funds in accordance with the religion of the tax-payers. In organized municipalities and cities, the boards of trustees of both public and separate schools submit their estimates for school purposes to the councils of their respective municipalities, which look after the levying and collecting of the revenue required for educational purposes.

Besides the support secured by local taxation, Catholic schools are also assisted very liberally, as are the other schools of the Province, through legislative grants derived from the endowment provided in 1872 by the Dominion Government to encourage education in the North-West Territories. This grant, which all schools under the provincial administration are entitled to receive, is based upon the number of days the school is in operation during the year, the average attendance of pupils, the number of departments in the school, the qualifications of the teachers, etc.<sup>17</sup>

The support of secondary as well as of elementary schools is provided for under the School Assessment Ordinance and the School Grants Act. Catholic High Schools where they are established are supported in the same manner as the elementary Catholic schools by both taxation and legislative grants. Special grants also are sometimes made to schools doing secondary work, as well as to schools which according to the Inspector's report show special efficiency with respect to grounds, buildings, equipment, government and progress in school work. Grants, equal to 40 per cent. of the salaries paid, to districts employing more than thirty teachers, and 50 per cent to districts employing less than thirty, are paid to separate and public school districts "providing instruction in household economics, manual training, commercial work, music, art, or technical subjects." 18

<sup>17</sup> School Grants Act. Chapter 15, 1913, Amended, Section 3; Alberta Consolidated School Ordinances, Edmonton, 1921.

In the matter of supervision, Catholic schools operating under the provincial system are submitted to the same inspection as non-Catholic schools. Although there are several Catholic Inspectors on the Provincial staffs, yet no division based on religious differences is made in the matter of Provincial School Inspection. In this respect the system of Alberta and Saskatchewan differs from that of Ontario and Quebec where the supervision of Catholic schools is placed entirely under Catholic Inspectors, who are provincially appointed officials as in Alberta. With regard to the professional or Normal School training required of Catholic teachers, all teachers employed in Catholic schools are obliged to qualify according to the general regulations relating to the examination, training and licensing of teachers. No provision is made for the recognition of Catholic Normal or Professional Training Schools such as is given to the teachers' professional training schools of the Protestant minority in the Province of Quebec, and to the Normal School of the Sisters of Charity in Nova Scotia. In this latter Province, although there exists no legally established separate school system, still, Catholic schools have, by mutual agreement, come to be recognized as a part of the provincial educational system, being accorded the same general method of support as to taxes, assessments and government grants as the legally constituted schools of the Province.

In the Province of Alberta religious instruction is permitted in all schools, but formal instruction may be given only at stated times during the daily school period. The time during which such instruction may be imparted in Catholic schools, whether separate or public, is regulated by law. No formal religious instruction is permitted in the school of any district from the opening of the school until one-half hour previous to closing in the afternoon, after which time any

<sup>18</sup> Op. cit., Sections 4, 5.

such instruction which may be permitted by the board of the district may be given. The school, however, may be opened with the recitation of the Lord's Prayer if the board so desires. 19 In this respect, again, the privileges accorded to Catholics, even under the Nova Scotia system, are more generous than under the Albertan separate school system. In the former, Catholic schools, in the matter of imparting religious instruction, are restricted neither as regards the duration of such instruction nor as to the time at which it shall be imparted. Attendance at religious instruction is not compulsory, and, if the parents or guardians so desire, any child has "the privilege of leaving the school room at the time at which religious instruction is commenced . . . or of remaining without taking part in any religious instruction that hay be given." 20

Provision is made in the Alberta school law for the recognition of Catholic Church Holy Days. Besides providing far certain general holidays, among which are mentioned New 'Year's Day, Ash Wednesday, Good' Friday and Christmas, the School Ordinance leaves it to the discretion of the board of a Catholic school district "to permit any other holidays not exceeding one day at a time." 21. According to the School Attendance Act of 1910, still in force, even in case there exists no Catholic school in a district and Catholic children are compelled to attend a non-Catholic school, such children are exempt from the obligation of attendance at school on all Catholic Holy Days; and "no penalty shall be imposed in respect to the absence of a child from school on a day regarded. as a holy day by the church or religious denomination to which such child belongs." 22

Although the educational legislation of the Province makes

<sup>19</sup> The School Ordinance, Section 137, Edmonton, 1921.

<sup>20</sup> Op. cit., Section 138.
21 Op. cit., Section 135.:
22 Section 17, Consolidated School Ordinances, Edmonton, 1921.

provision for the recognition and support of Catholic or denominational schools under its separate school system, yet, not all such schools in Alberta come directly under the control of the Department of Education. Catholics, or the members of any other religious denomination, are left free to establish private schools if they so desire. At present, according to the Report of the Department of Education, there are at least twenty-one such schools in actual operation, two of which are Catholic.23 All "private schools, whether Roman Catholic or Protestant, are inspected regularly by the provincial inspectors, and a report of the work being done in these institutions is kept on file by the Department of Education." 24 No restrictions, however, are placed on private schools as regards qualifications of teachers, courses given, text-books, etc. Attendance at these schools is held sufficient to fulfil the obligations of the School Attendance Act of the Province.

 <sup>23</sup> Annual Report of the Department of Education, 1921, p. 138.
 24 Ross, J. T., Deputy Minister of Education, Letter, dated Edmonton, January 28, 1920.

# CHAPTER XIII

## CATHOLIC SCHOOLS AND PROVINCIAL LEGISLA-TION IN SASKATCHEWAN

In Saskatchewan, as in Alberta, the existence of separate schools, as guaranteed by the new Provincial Constitution, became immediately the chief issue in the elections of 1905. On the passage of the Saskatchewan Act, which is identical in its educational provisions with the Alberta Act, Mr. William Scott, who then represented the Regina district in the Federal Parliament at Ottawa, was called upon to form a Government in the new Province.

The election campaign that followed was intensely exciting. The Liberal Party, with Mr. Scott as leader, supported the issue as determined by the Federal Government in Section 17 of the Saskatchewan Constitution. The Conservative Party, on the other hand, under the leadership of F. W. G. Haultain, who at the passing of the Saskatchewan Act and for several years previous held the office of Territorial Premier, took the opposite stand, adopting as their slogan "down with coercion." They contended that the determination of all matters pertaining to education should be left to the new Province itself. Although the system of education perpetuated by Section 17 of the Autonomy Act had proven satisfactory in the past, that fact, they maintained, did not justify the Federal Government in infringing on the provincial domain.

Moreover, some contended that the date of union was really 1870, and not 1905. As there was no separate school system established "by law" in operation at the earlier date, when the Dominion Government purchased the North-West Territories from the Hudson's Bay Company, it would follow, they urged, that section 11 of the North-West Territories Act, 1875, would not be applicable to the new Province. Saskatchewan could, therefore, begin her provincial career unhampered by any constitutional restrictions or alleged obligations to separate schools.

In answer to the contentions of the Conservative Party, the Liberals pointed out that section 2 of the British North America Act, 1871, gave to the Dominion Parliament full power to legislate with respect to the "constitution and administration" for all future new Provinces, on their being established out of unorganized territory and admitted to Confederation. Furthermore, they urged, if Section 17 of the Saskatchewan Act should, on appeal to the courts, be declared ultra vires of the Dominion Legislature, then section 93 of the British North America Act, 1867, would surely apply in its entirety to the new Province. Premier Scott also contended that should "a test case give them the right to abolish separate schools, it was just as likely to make legal the reestablishment of the Church schools which had existed by virtue of the Federal Legislation of 1875."

In support of their contentions, the Conservative Party invoked the statements of leading Canadian statesmen, including that of Lord Carnarvon, who, it will be recalled, had introduced the Canadian Bill of Confederation into the Imperial Parliament in London. Then, as the Territorial Ordinances of 1892 and 1901 were, in the words of Sir Wilfred Laurier, the Premier of Canada, "somewhat at variance with

· ....

<sup>&</sup>lt;sup>1</sup> Speech delivered at Wascana, Nov. 11, 1905; Hopkins, op. cit., p. 246.

the principles laid down by the organic law of 1875," <sup>2</sup> the Federal statute would undoubtedly hold precedence. It would follow that under the guarantee of Section 93 of the British North America Act the sectarian system established under the Territorial Ordinance would become the regular provincial system. On being accused by the Winnipeg Tribune of being in alliance with the Roman Catholic authorities, Premier Scott, while denying the charge, stated that so long as he was in power in Saskatchewan the sacred constitutional rights of Catholics would be respected.<sup>3</sup>

As the campaign progressed the antagonistic opposition of Mr. Haultain and the Conservative Party became more evident. Towards the end, Mr. Haultain came out definitely for the complete abolition of Catholic separate schools. When the position of the Conservative Party on the school question could no longer be doubted, Archbishop Langevin of St. Boniface, Manitoba, although a Conservative in politics, exerted his influence publicly in support of Premier Scott and the Liberal Party. On October 29th, a letter was read in the pulpits of that part of the Archdiocese comprised within the new Province outlining the following grievances of Western Catholics against Mr. Haultain:

- 1. He has taken away from us the control of our schools through the Catholic Section which he abolished in 1892.
  - 2. He has taken away from us our Catholic books.
- 3. He has positively refused to appoint a Catholic Inspector, notwithstanding the earnest request of the Archbishop of St. Boniface, seconded by the venerable Bishop of St. Albert.
- 4. He has been exacting and unfair toward Catholic teachers coming from England or different parts of Canada; the result is that in several Catholic centres the children do not know how to read or write.

<sup>&</sup>lt;sup>2</sup> Canadian Legislative Debates, June 25, 1905, Hansard, p. 8502. <sup>3</sup> Winnipeg Tribune, Nov. 21, 1905.

- 5. He has opposed publicly the continuation of the actual separate school system when the question of the organization of the new Provinces came up and he has declared that his first action, if he should come back to power, would be to abolish the clause in the law conserving a system of separate schools in the two new Provinces of Saskatchewan and Alberta. We also know the fiery speeches he has made in Ontario, appealing to the worst prejudices of race and creed, denouncing His Excellency, the Apostolic Delegate, in awful terms, and boasting, if anything remains to Catholics, as far as separate schools are concerned, it is against his will.
- 6. In view of these facts, how can Catholics, reasonably and conscientiously, give their vote in favor of Haultain and of the candidates who recognize him as their chief and their leader, whom they are bound to follow and obey? The Catholics should, then, unite and vote for those who are in favor of the actual system of Separate Schools, though these schools are neutral, because it is a partial recognition of their rights as free citizens of this country. Now is the time to show that we are a factor in public affairs. Let us unite, then, and cast our votes for the leaders who favor separate schools, and their followers.

Mr. Haultain retaliated by issuing a Memorandum to the people of the Province in which, among other things, he charged Mr. Scott with a political compact with Archbishop Langevin. The charge was denied by both the Archbishop and the Premier, the former stating, "I have never had the pleasure of seeing Mr. Scott, nor did I ever write to him, or have any understanding with him. How, then, could I make a compact with him?" Mr. Scott in his denial accused Mr. Haultain of wilful slander. He at the same time set forth in his letter to Mr. Haultain the following explicit declaration of his future educational policy:

"In my own behalf and in behalf of the Government and the Liberal Party I have solemnly and emphatically given the public pledge that no regulation will be altered or any-

<sup>4</sup> Hopkins, The Canadian Annual Review, 1905, p. 253.

<sup>5</sup> Manitoba Free Press, Dec. 2, 1905.

thing done which will in any degree tend to destroy or modify the purely national character of our schools, separate or public. I have pledged myself and the Liberal Government and party to maintain absolute control of every school and to continue the system of uniform text-books, uniform training and qualifications of teachers and uniform inspection of every separate and public school alike." 5

The public denial of Archbishop Langevin and Premier Scott did not prevent the further repetition of the charges by Mr. Haultain. At Weyburn, on December 4th, nine days before the elections, he described the Premier as having an arrangement with the Ottawa Premier, as Archbishop Langevin had with the Papal Delegate, for the perpetuation of separate schools in the new Provinces, and denounced Mr. Scott as "a traitor to the West." The result of this "conspiracy" would be future regulations strengthening the Roman Catholic position and the separate schools themselves unless the speaker were returned to power. His speech concluded with a strong appeal for "a rigid national school system with the absolute separation of Church and State." 7

The outcome of the elections held on December 13th was, as in Alberta, a victory for the Liberal Party. All the Mine isters of the Scott Government were re-elected, the Premier' himself by a large majority. By a vote of 16 to 9, Section 17 of the Saskatchewan Act was sustained by the voters of the new Province.8 The educational system then in force, with its separate schools, as provided for by the Territorial Ordinances of 1892 and 1901, was adopted and made the basis of the Saskatchewan school system. Little, if any, change has been made by the new Provincial Legislature regarding the legal relation of the Catholic schools of Saskatchewan to the provincial system. As it stands today, the system differs

<sup>6</sup> Hopkins, op. cit., p. 255.

<sup>7</sup> Op. cit., p. 252. 8 Cf Weir, op. cit., p. 58.

but little, as far as its legal bearing on Catholic schools is concerned, from that of 1901, when both Alberta and Saskatchewan were subject to the same school ordinances and departmental regulations.

In September, 1905, both' Provinces began their new autonomous career with the same Federal regulations with respect to separate schools, Section 17 of the Saskatchewan Act being identical with Section 17 of the Alberta Act. Since that date their educational systems, especially with respect to their bearing on Catholic schools, have developed along almost identical lines. As in Alberta the administration of the educational system of Saskatchewan is in the hands of a central Department of Education presided over by a member of the Provisional Cabinet styled the Minister of Education. In the administration of the department he is assisted by "a superintendent, deputy minister, registrar, inspectors; etc.," also by an "Educational Council" similar to that of Alberta, "consisting of at least five persons, two of whom shall be Roman Catholics."

This council "represents the general educational policies of the people and must be consulted before any departmental regulations can be adopted." It may on its own initiative "consider also questions concerning the educational system of Saskatchewan as to it seems fit and report thereon to the Lieutenant- Governor-in-Council." In matters pertaining to the establishment, maintenance and inspection of schools, the qualifications, training and licensing of teachers, textbooks, and religious instruction the laws are almost identical

<sup>9</sup> North-West Territorial Ordinance, Chaps, 29, 30, 1901, See appendix.

<sup>10</sup> Saskatchewan School Act, R.S.S., 1920, Chap. 110.

<sup>11</sup> Op. cit., Section 4.

<sup>12</sup> Op. cit., Section 9.

is Foght, Survey of Education in the Province of Saskatchewan,

<sup>14</sup> Saskatchewan School Act, Section 12.

in their wording with those of Alberta. The Canadian Catholic Readers are prescribed as "optional" for the Catholic separate schools. Although formal religious instruction may only be given during the last half hour of the daily school period, the law does not, however, interfere with informal or correlated moral and religious instruction during the other periods of the school day.

As in the Province of Alberta practically all the separate schools are Catholic. But by far the greater number of the Catholic schools of the Province are classified as public schools. In the year 1905, when Saskatchewan was established as a Province, there existed only seven Catholic separate schools, while the Catholic public schools numbered thirtyone.17 In many other school districts the schools were practically Catholic, as the majority of the ratepayers were of the faith. At the time that Saskatchewan was admitted to Confederation, there existed according to Honorable J. A. Calder, then Minister of Education, many districts in the Territories in which the majority of the ratepayers were Roman Catholics. 18 In most of these districts the treatment accorded to the hon-Catholic ratepavers had proven so satisfactory that no attempt had been made to establish Protestant separate schools.19 At that date the total number of Protestant separate schools in operation in the Province of Saskatchewan was only two.20

Of the separate schools in existence in the Province of Saskatchewan at the present time seventeen are Catholic and four Protestant.<sup>21</sup> There are no printed figures available to

<sup>\$5</sup> Regulations of the Department of Education, Section 27 (9).

he Cf. Saskatchewan School Act. Section 179

<sup>17</sup> Cf. Canada and Its Provinces, vol. 20, p. 547.

<sup>18</sup> Hopkins, The Canadian Annual Review, 1905, p. 243.

<sup>&</sup>lt;sup>19</sup> Weir, op. cit., p. 101.

<sup>20</sup> Cf. Short and Doughty, op. cit., p. 45%

<sup>21</sup> Annual Report of the Department of Education, p. 36, Regina, 1922.

indicate the exact number of public schools that are Catholic, but in view of the fact that there are quite a number of Catholic settlements (French, German, Ruthenian), it may safely be inferred that many such Catholic schools exist.

Furthermore, there are within the Province many other Catholic schools which do not come under the direct control of the Department of Education. The number of such independent Catholic schools in operation during the year 1922 was twenty-four. Until the year 1918, no attempt had been made by the provincial authorities to supervise this type of school. Since then, however, acting upon the recommendations made by Dr. Foght, of the United States Bureau of Education, "that all private schools now operating without specific authority of law be placed under competent government inspection, and that in matters of study, courses, teacher certification, these schools be adjusted gradually to conform more closely to the Canadian people," some preliminary attempts at supervising these schools have been introduced.

There can be no doubt as to the legal right of the provincial authorities to carry out the recommendations of the Survey. It may be questionable, however, as to whether the Provincial Legislature could abolish all private schools under the existing Provincial and Federal guarantees. According to Mr. Scott, the late Premier and Minister of Education, the provincial authorities "have the power to prohibit all parochial schools and have nothing but public and separate schools. It is a matter of policy whether it should be done." So far, however, the provincial authorities have deemed it advisable to allow for the continuance of private schools in both Saskatchewan and Alberta under a minimum of supervision.

<sup>22</sup> Survey of Education in the Province of Saskatchewan, p. 154. 23 Response of Premier Scott, January 20, 1916, to a delegation of the Grand Orange Lodge of Saskatchewan, advocating the abolition of separate and private schools. Weir, op. cit., p. 140.

One important difference may be noted in the attitude of Saskatchewan legislation towards private schools. The School Grants Act of the Province provides that, "Out of any moneys appropriated by the Legislature and available for grants in aid of elementary education the Lieutenant-Governor-in-Council, on the recommendation of the Minister, may order the payment of a special grant to any school in the Province whether organized and operated according to law or not." <sup>24</sup> But, in fact, the instances in which such aid has been extended to private schools are few. Catholics generally in both Provinces, wherever qualified teachers are available, are quite satisfied to identify themselves with the existing provincial educational system.

Although the permanent existence of Catholic schools as a part of the regular educational system of Alberta and Saskatchewan has been definitely settled by the embodiment of Section 17 in both Constitutions, all agitation for the abolition of the separate school system has not ceased. This is particularly true in Saskatchewan where, from time to time, various societies and lodges, among whom Orange lodges have been most active, have advocated the total abolition of Catholic schools. One of the most formidable efforts towards that end is that represented by the movement which assumed definite shape, when on January 20, 1916, a strong delegation, composed of Mr. Isaac Dawson, Deputy Grand Master, Mr. W. H. G. Armstrong, Grand Organizer for Saskatchewan, Mr. Robert Dawson, Worshipful Master, representing the Grand Orange Lodge of Saskatchewan, waited upon the Government of the Province with a view of having the separate school laws repealed. The Government with Mr. Scott as Premier was urged to make "the abolition of separate schools a plank in their platform at the next political election," to abolish the Educational Council, or if such

<sup>&</sup>lt;sup>24</sup> Section 6, R.S.S., 1920, c. 113, mended.

were necessary, to do away with the provision which requires at least two out of five members to be Catholic, and to abolish private schools or to place them under strict Government On finding the Government not in sympathy regulation. with the proposals Mr. Armstrong, Sr., the spokesman of the delegation, made a statement which implied a threat to use the power of the Orange Lodge to turn the Government out of office, if their demand was not complied with. "We are not," he stated, "interested in the advancement of one political party more than another. We hold ourselves aloof from both political parties, but we are united in one thing, viz., the establishment of a purely National School system. We have succeeded in turning Governments out of office because they tampered with the national system of education existing in certain Provinces." 25

In reply to the demands Hon. Walter Scott, the Premier, observed, "I am not disposed to enter into a discussion about separate schools, because I am so thoroughly convinced that the Province has not the power to abolish the separate school system." With regard to private schools, he stated that, "We have the power to prohibit all parochial schools and have nothing but public and separate schools. It is a matter of policy whether it should be done.<sup>20</sup>

A more recent movement manifested itself at the annual convention of the Provincial School Teachers' Association, February 24-26, 1921. Resolutions<sup>27</sup> were passed requesting the abolition of separate schools, or at least that a referendum upon the abolition of the separate school system of Saskatchewan be taken at the next provincial election. Resolution No. 14 aimed particularly at Catholic Sisters, declared that "no sectarian religious emblems be displayed in public schools at any time, and that no person be allowed to wear

<sup>25</sup> Weir, op. cit., Appendix 2, pp. 132, 133.

<sup>26</sup> Op. cit, pp. 136, 140.

<sup>27</sup> Resolutions 10, 12.

the distinctive dress of any Church, while acting as a public school teacher." 28

The attitude of the Government of the Province was made clear at the opening of the Provincial election campaign on May 14th of the same year, when Premier Martin spoke of "the effort to revive the Separate School Question." stated that he wished to make it clear at the outset that "the Government stood for the constitutional system as legally established." 29 In the elections that followed Premier Martin's stand was endorsed in the re-election of himself and his party.

It might be asked that though the Provincial Legislatures are powerless to abolish the separate school system of Saskatchewan and Alberta, might not this be effected through the Federal Legislature should a party hostile to the Catholic interests secure control of the Canadian Government? Here again the Catholic educational rights are strongly safeguarded through the very Act which empowers the Parliament of Canada to establish new Provinces. The · British North America Act, 1871, which deals with this matter, states that beyond the changing of the limits of a Province under certain stated conditions, "it shall not be competent for the Parliament of Canada to alter the provisions of \* \* \* or any other Act hereafter establishing new Provinces in the said Dominion." So at present neither the Provincial Legislature of Alberta or Saskatchewan nor the Federal Gov-· ernment of the Dominion of Canada has the power to reduce or abolish the separate school privileges provided for by Section 17 of the Alberta and Saskatchewan Constitutions, rights further reinforced by the application of Section 93 of the Canadian Federal Constitution.

Provincial and Federal Legislatures are powerless to

<sup>28</sup> Canadian Annual Review, 1921, p. 803.

<sup>29</sup> Op. cit., p. 811.

abrogate the separate school systems of Alberta and Saskatchewan, but the Provincial Legislatures are in no way restricted as to the privileges which may be legally extended to Catholic schools. As Mr. Haultain, the great opponent of Catholic separate schools, has well stated; "The Commissioner of Education may, to-morrow, if the pleases, recommend new regulations granting separate text-books to separate schools. He may, if he pleases, appoint Roman Catholic inspectors for Roman Catholic schools. He may further provide by regulation for a different qualification for separate school teachers, and he may further establish separate Roman Catholic Normal Schools, separate teachers' institutes, separate kindergartens, and separate deaf, dumb and blind institutions which, then, under the terms of the Autonomy Bill, must receive proportionate assistance from the public funds. '' 30

<sup>30</sup> The Canadian Annual Review, 1905, p. 254.

### SECTION IV

# GENERAL SUMMARY, BIBLIOGRAPHY AND APPENDIX



#### CHAPTER XIV

#### GENERAL SUMMARY

In British Columbia, Catholic schools never formed a component part of the established State educational system. At present Catholic parochial schools are permitted to exist and operate without being subjected in any manner to provincial restrictions, but they have no actual legal status. Indirectly they are recognized by the provincial authorities, as attendance at these schools fulfils the requirements of the compulsory school ordinance. Investigations into the early historical, colonial and legislative documents bearing on the colonial history of British Columbia, show that the Catholic missionaries had established at least one Catholic school before the establishment of the first of the Colonial schools. Documentary evidence on this point, apparently unnoticed by Catholic and by non-Catholic writers, gives to the Catholic Church a distinction hitherto denied Her-that of having established a school in British Columbia at the very beginning of the Colornial rule, thus contending with the Hudson's Bay Company for the honor of being the first to provide a school within the confines of the British North America territory west of the Rockies.

It is conclusive that several Catholic schools had been operating in the Colonies long before the establishment of a legally constituted educational system. Documents, including legislative records and educational reports, show that the earliest colonial schools established were virtually sectarian schools, and that the cost of erecting and operating these was largely defrayed by the Colonial treasury. An attempt on the part of the authorities of the Church of England to burden the young Colony of Vancouver Island with the financial support of their Church as well as of their schools, seems to have been largely accountable for the withdrawal of financial aid to denominational schools. At no time under Colonial rule, however, did Catholic schools share in the financial contributions made to denominational schools.

As the Catholic schools which existed before Confederation did not form a part of the regular school system, Catholics had not at the date of the establishment of provincial rule any valid claim under the Federal Constitution for the legal recognition of their schools as a part of the provincial system. Nor has legal recognition been extended to Catholic schools at any time under provincial rule. However, there exists no insurmountable legal barrier to prevent the provincial authorities from extending full legal recognition to Catholic schools at the present time or at any future date, should it be deemed advisable.

Should Catholic schools once receive their well-merited legal recognition by the Provincial Legislature, Section 93 of the British North America Act, 1867 (which should then apply with all its safeguarding powers), would guarantee the right of Catholic schools to continued existence as a part of the regular Provincial system. Although it is at present apparently beyond the power of the Provincial Legislature to

abolish Catholic parochial or private schools, yet there exists no legal prohibition to prevent the Province from imposing regulations as to courses of study and qualification of teachers.

Despite the fact that the educational legislation of British Columbia makes no provision for the recognition of Catholic schools as a part of the provincial school system, yet it would be quite within the power of the provincial authorities to make some concession to Catholic schools such as is extended to them in Nova Scotia, where denominational schools are not recognized by the provincial school law, but by custom, so that "the only two Roman Catholic Colleges of the Province and most of the Convents are affiliated with the public school system."

In the Provinces of Alberta and Saskatchewan, Catholic schools supported by municipal taxation and provincial fundsform a part of the legally constituted provincial educational system. These schools are obliged to submit to the general educational régulations as regards qualifications of teachers, courses of study, text-books, etc. Catholic readers are provided for under the educational regulations, and in both of these Provinces formal religious instruction may be given during the last half-hour of the school day.

The early records and documents show clearly that to Catholics belongs the honor of having established the first schools within the territory now comprised within the two Provinces of Alberta and Saskatchewan. There is conclusive evidence that Catholic schools conducted by an efficient staff of Sisters were in operation for a quarter of a century prior to the establishment of the first public or State school system. With the inauguration of the first Territorial educational system by the passage of the Ordinance of 1884, Catholic schools as well as other denominational schools received full

<sup>&</sup>lt;sup>1</sup> Hopkins, J. Castell. Canada—An Encyclopedia, Article by Dr. A. H. MacKay, Provincial Superintendent of Education, p. 221.

legal recognition under an educational scheme similar to that This early educational system, which gave to Catholics complete control of Catholic schools while at the same time enjoying full participation in State educational funds, did not long endure. With the development of the country and growth of the non-Catholic population, radical curtailment of the Catholic legal educational rights was effected in spite of vigorous protests on the part of Catholics. The anti-Catholic agitation even went so far as to advocate the abrogation of the legal recognition of Catholic schools. With the establishment of provincial rule in 1905, the existence of Catholic schools and their continued and permanent recognition as a part of the regular provincial educational systems is safeguarded both by the Provincial and by the Federal Constitutions, so that the withdrawal of legal recognition and the participation in State support is quite beyond the power of the Provincial and even of the Federal Legislatures.

Private Catholic schools are also permitted under the present provincial educational system, although subjected to Governmental inspection. The continued existence of this type of Catholic school is, however, not guaranteed by the Provincial Constitutions, and it is apparently quite within the power of the Legislatures of Alberta and Saskatchewan either to subject them to additional regulations or abolish them altogether.

The lagal status of Catholic schools in the Provinces of Alberta and Saskatchewan, while being far from ideal, as is that represented by the Quebec system, where Catholic schools are placed by the provincial legislation under the direct control of the ecclesiastical authorities, and where the schools of the Protestant minority are placed entirely in the hands of a Protestant Department of Education, is nevertheless in practice fairly satisfactory. As there is nothing of a legal

nature to prevent the recognition of the rights of Catholics to a more extended control of Catholic schools within the two Provinces, Catholics may hopefully strive for the attainment of that desired end. In none of the three Western Provinces dealt with is there anything of a constitutional nature to prevent the respective Provincial Legislatures from extending to Catholics the exercise of the full control of their own schools, while admitting them to a participation in their proportionate share of the district and provincial educational funds.



#### CHAPTER XV

#### BIBLIOGRAPHY

#### I. Government Publications

. Alberta, Consolidated School Acts. Edmonton, 1921.

Annual Reports of the Department of Éducation, 1906-1921.

Courses of Studies for the Elementary Schools, Parts I, II and III. Edmonton, 1922.

Legislative Debates, 1906-1922.

British Columbia, Archives; Memoirs No. II, III and IV. Edited by Mr. Scholefield, Provincial Librarian and Archivist.

Memoir No. II., Minutes of the Council of Vancouver Island, August 30th, 1851-1861.

Memoir No. III., Minutes of the House of Assembly of Vancouver Island, August 12th, 1856—September 25th, 1858.

Memoir No. IV., House of Assembly Correspondence Book, August 12th, 1856—July 6th, 1859.

Legislative Debates, 1872-1921.

Common School Ordinance, 1869.

Public Schools Act, 1872.

First Annual Report on the Public Schools in the Province of British Columbia for the Year Ending July 31st, 1872.

Manual of School Laws and Regulations. Victoria, 1922.

British North America Acts, 1867-1915. Ottawa, 1917.

Canada School Laws and other Educational Matters. Ottawa, 1894.

Canada Year Books. Ottawa, 1904-1922.

Dominion of Canada House of Commons and Senate Debates, 1867, 1905.

Lois Scholaires et Autres Documents sur l'Instruction Publique Concernant l'Assiniboia, l'Ile du Prince Edouard, des Territories du Nord-Ouest et le Manitoba. Ottawa, 1895.

North-West Territories School Laws of 1901, School Ordinance, School Assessment Ordinance, School Grants Ordinance. Regina, 1901.

Saskatchewan, Consolidated School Acts. Regina, 1921.

Annual Reports of the Department of Education, 1906-1921.

Course of Studies for the Elementary Schools. Regina, 1922.

Regulations of the Department of Education. Regina 1922.

Legislative Debates, 1906-1922.

Survey of Education in the Province of Saskatchewan, by H. W. Foght, Ph.D., Bureau of Education, Washington, D.C. Regina, 1918.

II. Constitutional, Political, Religious and Historical Works

Adam, G. M., The Canadian North-West. Toronto, 1885.

The Life and Career of the Rt. Hon. Sir John A. MacDonald. London, 1892.

Bancroft, H. H., History of the North-West Coast of America, 2 Vols. San Francisco, 1884.



- Begg, Alexander, The Great Canadian North-West. Montreal, 1881.
  - History of the North-West, 3 Vols., Toronto, 1894.
- Begg, History of British Columbia from Its Earliest Discovery to the Present Time, Toronto, 1894.
- Blanchet, Most Rev. Francis N., Historical Sketches of the Catholic Church in Oregon During the Past Forty Years. Portland, 1878.
- Brabant, Rev. A. J., Vancouver Island and its Missions, 1874-1900. New York, 1900.
- The Canadian North-West, Its Early Development and Legislative Records, Minutes of the Councils of the Red River Colony and the Northern Department of Rupert's Land, 2 Vols. Edited by Professor E. H. Oliver: University of Saskatchewan, 1917.
- Canadian Reports, Appeal Cases, Edited by W. E. Lear, Toronto, 1904.
- Cameron, A. D., The New North. New York, 1910.
- Cameron, E. R., The Canadian Constitution. Toronto, 1915.
- Coats and Gosnell, The Makers of Canada, Vol. 20. Toronto, 1910.
- Chauveau, P. J., L'Instruction Publique au Canada. Quebec, 1876.
- Clement, W. H. P., The Law of the Canadian Constitution. Toronto, 1915.
- Dawson, G. M., The North-West Territories and British Columbia. Ottawa, 1881.
- Demers, Mgr. M., Chinook Dictionary, Cathechism, Prayers, Hymns. Montreal, 1871.
- Duchaussois, Rev. P., The Grey Nuns in the Far North. Toronto, 1919.

- Dugas, Rev. G., L'Ouest Canadien. Montreal, 1896. Histoire de l'Ouest Canadien. Montreal, 1906.
- Ewart, John S., The Manitoba School Question. Toronto, 1894.

The Manitoba School Question. Winnipeg, 1895.

- Hill, Robert B., History of Manitoba.
- Hodgins, J. G., The Legislation and History of Separate Schools in Upper Canada. Toronto, 1897.

Provincial Legislation, 1867-1895.

Hopkins, J. Castell, Canada—An Encyclopedia, 3 Vols. Toronto, 1898-1900.

The Story of Our Country. Toronto, 1916.

- Houston, Wm., Documents Illustrative of the Canadian Constitution. Toronto, 1891.
- Howay and Scholefield, History of British Columbia, 3 Vols. Vancouver, 1914.
- Hughes, Katherine, Father Lacombe, the Black-Robe Voyageur, Toronto, 1920.
- Keith, A. B., Responsible Government in the Dominions, 3
- Kennedy, W. M. P., Documents of the Canadian Constitution. Oxford, 1918.
- Landry, M. P., Le Bill d'Autonomie des Provinces d'Alberta et de Saskatchewan. Quebec, 1905.
- Lavergne, Armand, La Verite sur la Question Scolaire du Nord-Ouest. Montreal, 1907.
- Leduc, Rev. H., Hostility Unmasked, School Ordinance of 1892 of the North-West Territories and its Disastrous Results. Montreal, 1896.



- Lefroy, A. H. F., Legislative Power in Canada. Toronto, 1898.
  - Canada's Federal System, Being a Treatise on Canadian Constitutional Law under the British North America Act. Toronto, 1914.
  - Leading Cases in Canadian Constitutional Law. Toronto, 1914.
- MacDonald, D. G. F., British Columbia and Vancouver Island. London, 1865.
- Macfie, Mathew, Vancouver Island and British Columbia. London, 1865.
- McDonald, Archibald, Peace River, a Canoe Voyage from Hudson's Bay to the Pacific. Ottawa, 1872.
- Morice, Rev. A. G., History of the Northern Interior of British Columbia. Toronto, 1905.
  - History of the Catholic Church in Western Canada. Toronto, 1905.
  - Histoire de l'Eglise Catholique dans l'Ouest Canadien, 4 Vols. Montreal, 1922-1923.
- Munro, The Constitution of Canada. Cambridge, 1889.
- O'Hara, Rev. E. V., Pioneer Catholic History of Oregon. Portland, 1911.
- Ortolan, Rev. Th., Les Oblats de Marie Immaculée, 2 Vols. Paris, 1921.
- Paquet, E. T., L'Eglise et l'Education. Quebec.
- Pemberton, J. D., Facts and Figures Relating to Vancouver Island and British Columbia. London, 1860.
- Pope, Confederation Documents. Toronto, 1895.
- Porritt, Edward, Evolution of the Dominion of Canada. New York, 1918.
- Putnam, J. H., Edgerton Ryerson and Education in Canada. Toronto, 1894.

- Prendergast, Jas. E. B., The Manitoba School Question. Winnipeg, 1890.
- Rawlings, The Confederation of the British North American Provinces. London, 1865.
- Ross, Alexander, The Red River Settlement. London, 1856.
- Richardson, Wm. L., The Administration of Schools in the Cities of the Dominion of Canada, Toronto, 1922.
- Roy, Phillippe, L'Autonomie des Provinces de l'Ouest, Alberta et Saskatchewan, Situation Scolaire. Montreal, 1905.
- Short and Doughty, Canada and its Provinces, Archives Edition, 23 Vols. Toronto, 1914.
- St. Ann's Academy Museum, Documents, Letters, etc. Victoria, B. C.
- Stinmson, History of the Separation of the Church and State in Canada. Toronto, 1888.
- Taché, Most Rev. A., Denominational or Free, Christian Schools in Manitoba. Winnipeg, 1877.
  - Vingt Années de Missions dans le Nord-Ouest l'Amerique. Montreal, 1888.
  - A Page in the History of the Manitoba Schools during Seventy-five Years. Winnipeg, 1893.
  - Memorial on the School Question. Montreal, 1894.
- Tracy, The Tercentenary History of Canada, 3 Vols. Toronto, 1917.
- Weir, G. M., The Separate School Law in the Prairie Provinces. Queen's University, Kingston, 1918.
- Wheeler, G. J., The Confederation Law of Canada. London, 1897.
- Wrong, Williamson, Lash and Falconer, The Federation of Canada. Toronto, 1917.

#### III. Newspapers and Periodicals

- American Catholic Quarterly Review,
  - Vol. 20, 1895, Ewart, J. S., "The Manitoba School Question." Vol. 30, 1905, Stockley, W. E. P., "The Canadian North-West." Vol. 31, 1906, Grey, F. M., "Problems in Canada."
- British Columbia Orphan Friend, Vol. 5, 1908, Nos. 8, 9. Historical Number, Victoria, 1914.
- British Colonist, Victoria, B.C., 1861-1867.
- The Daily Colonist, Victoria, B.C., March 15, 1903, July 21, Aug. 18, 1907.

  November 1-30, 1922.
- Victoria Daily Times, Victoria, B.C., March 11, 20, 27, April 7, 1922, November 1-30, 1922.
- Canada Historical Review, Vol. 2, No. 2, June, 1922, Toronto.
- Canadian Annual Review of Public Affairs, Hopkins, Castell, Vols. 1904-1921.
- Canadian Magazine, Vol. 54, March, 1920.
  - O'Hagan, Thos., "Educational Security of Minorities."
- Canadian Monthly and National Review, Vol. 11, March, 1877. "Education in Canada."
- Catholic Educational Association Bulletin, Sixteenth Annual Report, Columbus, Ohio, 1919.
- Education, Vol. XXV., May, 1905.
  - Hughes, J. L., "The Separate School Agitation in Can-ada."
- Free Press, Manitoba, November 24, December 2, 1905.
- The Globe, Toronto, February 24, 1905.
- The Mail and Empire, Toronto, May 19, 1917.
  - "Federal and Provincial Control in Education."

The Messenger, Vol. 43, May, 1905.
B. S., "The Separate School Question in Canada."

The Month, Vol. 108, 1906. F. S., "The School System in Canada."

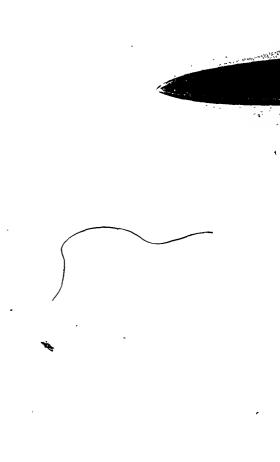
The Nation, Vol. 80, April 13, 1905, "The Canadian School Question."

The Outlook, Vol. 79, April 15, 1905.

"The Separate Schools Practically National Schools." Vol. 80, May 13, 1905, "New Aspects of the Canadian School Question."

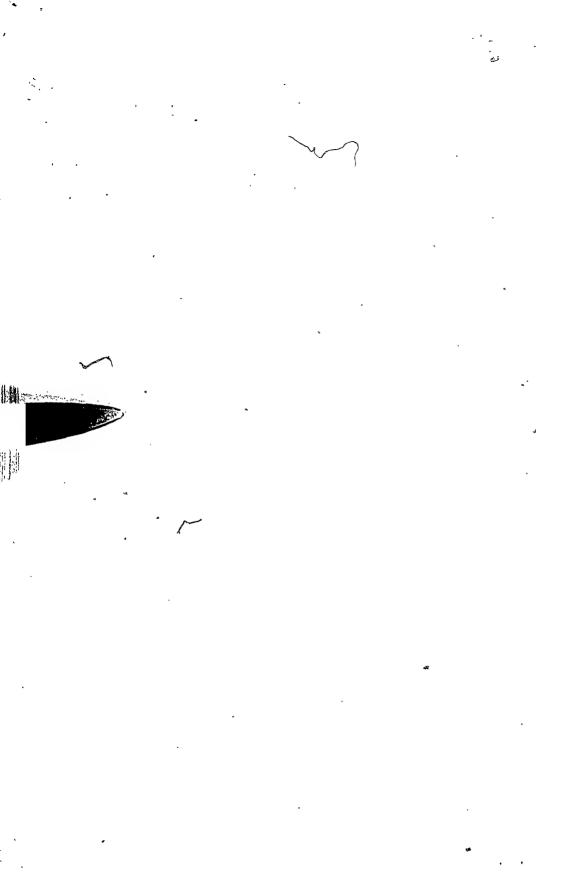
The Tribune, Winnipeg, November 21, 1905.





•

€



#### APPENDIX

North-West Territories School Ordinances, Chapters 29 and 30, 1901. Sections Having a Special Reference to Separate or Catholic Schools under the Provincial Constitutions of Alberta and Saskatchewan:

#### THE SCHOOL ORDINANCE—CHAPTER 29 OF 1901

#### Department of Education

- 3. There shall be a department of the public service of the Territories called the Department of Education over which the member of the executive Council appointed by the Leiutenant-Governor-in-Council under seal of the Territories to discharge the functions of the Commissioner of Education for the time being shall preside.
- (2) The Lieutenant-Governor-in-Council may appoint such officers, clerks and servants as are required for the proper conduct of the business of the department and for the purpose of this Ordinance all of whom shall hold office during pleasure.
- 4. The department shall have the control and management of all kindergarten schools, public and separate schools, normal schools, teachers' institutes, and the education of the deaf, deaf mute and blind persons.
- 5. The Commissioner shall have the administration, control and management of the department and shall oversee and direct the officers, clerks, and servants thereof.

153

#### Regulations of the Department

- 6. The Commissioner with the approval of the Lieutenant-Governor-in-Council shall have power:
  - 1. To make regulations of the department-
  - (a) For the classification, organization, government, examination and inspection of all schools hereinbefore mentioned:
  - (b) For the construction, furnishing and care of school buildings and the arrangement of school premises;
  - (c) For the examination, licensing and grading of teachers and for the examination of persons who may desire to enter professions or who may wish certificates of having completed courses of study in any school;
    - (d) For a teachers' reading course and teachers' institutes and conventions.
    - 2. To authorize text and reference books for the use of the pupils and teachers in all schools hereinbefore mentioned as well as such maps, globes, charts, and other apparatus or equipment as may be required for giving proper instruction in such schools;
    - 3. To prepare a list of books suitable for school libraries and to make regulations for the management of such libraries;
    - 4. To make due provision for the training of teachers.

#### Educational Council

- 8. There shall be an educational council consisting of five persons at least two of whom shall be Roman Catholics to be appointed by the Lieutenant-Governor-in-Council; who shall receive such remuneration as the Lieutenant-Governor-in-Council shall determine.
- 10. All general regulations respecting the inspection of schools, the examination, training, licensing, and grading of teachers, courses of study, teachers' institutes, and text and reference books shall before being adopted or amended be referred to the council for its discussion and report.
  - 11. The council shall consider such matters as may be



referred to it as hereinbefore provided or by the Commissioner and may also consider any question concerning the educational system of the Territories as to it may seem fit and shall report thereon to the Lieutenant-Governor-in-Council.

#### Formation of Public School Districts

- 12. Any portion of the Territories may be erected into a public school district provided that—
- (a) It does not exceed five miles in length or breadth exclusive of road allowances;
- (b) It contains four persons actually resident therein who on the erection of the district would be liable to assessment and twelve children between the ages of five and sixteen inclusive;

Provided however that in special cases the Commissioner may permit the boundaries of any district to exceed five miles in length or breadth or either.

#### Separate Schools

- 41. The minority of ratepayers in any district whether Protestant or Roman Catholic may establish a separate school therein; and in such case the ratepayers establishing such Protestant or Roman Catholic separate school shall be liable only to assessments of such rates as they impose upon themselves in respect thereof.
- 42. The petition for the effection of a separate school district shall be signed by three resident ratepayers of the religious faith indicated in the name of the proposed district; and shall be in the form prescribed by the commissioner.
- 43. The persons qualified to vote for or against the erection of a separate school district shall be ratepayers of the district of the same religious faith Protestant or Roman Catholic as the petitioners.
- 44. The notice calling a meeting of the ratepayers for the purpose of taking their note on the petition for the erection of a separate school detrict shall be in the form prescribed by the commissioner and the proceedings subsequent

to the posting of such notice shall be the same as prescribed in the formation of public school districts.

- 45. After the establishment of a separate school district under the provisions of this Ordinance such separate school districts and the board thereof shall possess and exercise all rights, powers and privileges and be subject to the same liabilities and method of government as is herein provided in respect of public school districts.
- (2) Any person who is legally assessed or assessable for a public school shall not be liable to assessment for any separate school established therein.

#### Religious Instruction

- 137. No religious instruction except as hereinafter provided shall be permitted in the school of any district from the opening of such school until one-half hour previous to its closing in the afternoon after which time any such instruction permitted or desired by the board may be given.
- (2) It shall, however, be permissible for the board of any district to direct that the school be opened by the recitation of the Lord's Prayer.
- 138. Any child shall have the privilege of leaving the school room at the time at which religious instruction is commenced as provided for in the next preceding section or of remaining without taking part in any religious instruction that may be given if the parents or guardians so desire.
- 139... No teacher, school trustee or inspector shall in any way attempt to deprive such child of any advantage that it might derive from the ordinary education given in such school and any such action on the part of any school trustee, inspector or teacher shall be held to be a disqualification for and voidance of the office held by him.

#### THE SCHOOL ASSESSMENT ORDINANCE CHAPTER 30 OF 1901

#### Assessment in Rural Districts

- 8. In cases where separate school districts have been established whenever land is held by two or more persons as joint tenants or tenants in common the holders of such property being Protestants and Roman Catholics, they shall be assessed in proportion to their interest in the land in the district to which they respectively are ratepayers.
- 9. A company may by notice in that behalf to be given to the secretary of the board of any district in which a separate school has been established and to the secretary of the board of such separate school district, require any part of the land of which such company is the owner to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school ratepayer in the assessment roll in respect to the land specially designated in that behalf in or by said notice and so much of the land as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school, and not for public school purposes, but all other land of the company shall be separately entered and assessed in the name of the company as for public school purposes.

Provided always that the share or portion of the land of any company entered, rated or assessed in any district for separate school purposes under the provisions of this section, shall bear the same ratio and proportion to the whole land of the company assessable within the district as the amount or proportion of the shares or stock of the company, so far as the same are paid or partly paid up, held or possessed by persons who are Protestants or Roman Catholics, as the case may be, bears to the whole amount of such paid or partly paid up shares or stock in the company.

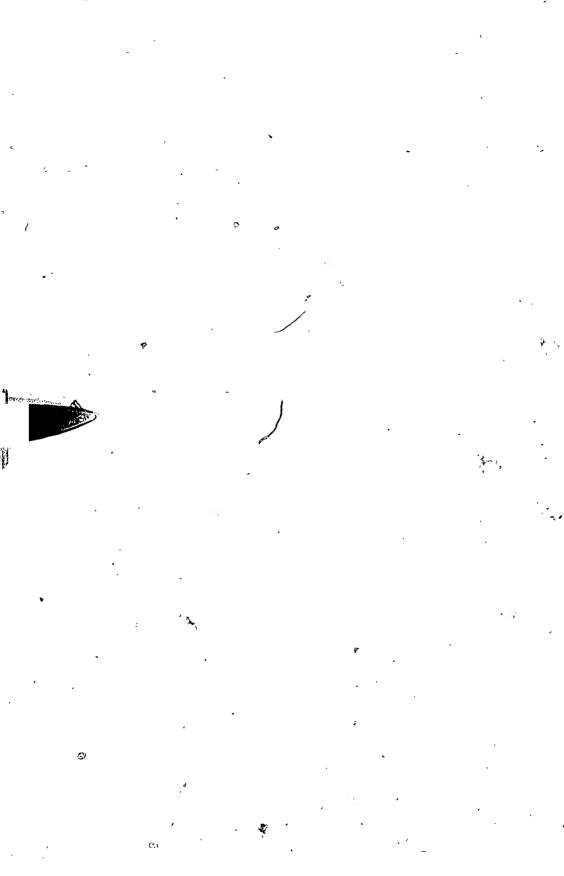
(2) Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall, for all purposes, be deemed to be sufficient, and every such notice so given shall be taken as continuing and in force and to be acted upon unless the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors.

#### Assessment and Taxation in Village and Town Districts.

- 92. In cases where separate school districts have been established, whenever property is held by two or more persons as joint tenants or tenants in common, the holders of such property being Protestants or Roman Catholics, they shall be assessed in proportion to their interest in the property in the district to which they respectively are ratepayers.
- 94. A company may by notice in that behalf to be given to the secretary-treasurer of any municipality wherein a separate school district is either wholly or in part situated, and to the secretary of the board of such separate school district, require any part of the real property of which such company is either the owner and occupant, or not being such owner, is the tenant or occupant or in actual possession of, and any part of the personal property, if any, of such company, liable to assessment to be entered, rated and assessed for the purposes of said separate school, and the proper assessor shall thereupon enter said company as a separate school supporter in the assessment roll in respect of the property specially designated in that behalf in or by said notice, and so much of the property as shall be so designated. shall be assessed accordingly in the name of the company for the purposes of the separate school and not for public school purposes, but all other property of the company shall be separately entered and assessed in the name of the company as for public school purposes;

Provided always, that the share or portion of the property of any company entered, rated or assessed, in any municipality or in any school district for separate school purposes under the provisions of this section, shall bear the same ratio and proportion to the whole property of the company assessable within the municipality or school district as the amount or proportion of the shares or stock of the company, so far as the same are paid or partly paid up, held or possessed by persons who are Protestants or Roman Catholics, as the case may be, bears to the whole amount of such paid or partly paid up shares of stock of the company.

- (2) Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall, for all purposes, be deemed to be sufficient, and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or its directors.
- 94. In cases where separate school districts have been established where land is owned by a Protestant and occupied by a Roman Catholic, or *vice versa*, such land shall be assessed to the owner.



### By the same Author

## The Morality of the Strike

By DONALD A. MacLEAN, M.A., S.T.L., Ph.D.

Preface by JOHN A. RYAN, D.D.



This exceptionally meritorious volume is a clear-cut answer to the many grave questions which now occupy the minds of the industrial and economic leaders not only in this country, but elsewhere. It is a comprehensive and adequate treatment of the moral questions involved in the strike. The author gives us briefly the history of Labor from the earliest years to the present day, and goes beyond all other treatises on the subject: he discusses the moral issues so fundamentally involved . . . In addition there is an excellent bibliography (the most extensive we have ever seen on this subject) and a copious Index. Students of industrial problems will find this work perfectly sound as regards its ethical conclusions; and we believe that it will safely endure the test of any competent analysis.—Catholic Historical Review.

A new book from America, written to analyse so acute a problem as the morality of strikes, should receive a welcome from all students of social conditions in this country, and we may hope that Father MacLean's volume will reach a wide circle of readers. . . . At such a moment, then, Father Mac-Lean's volume cannot be too highly praised; and priests, economists, politicians, and social writers generally, will be well advised to secure it. It gives sound and clear guidance in a period of very great danger. We can promise the reader of it much lively reading, and much hard thinking.-Blackfriars, Oxford, England.

Every strike means economic loss, and this loss is frequently borne by the innocent bystander. Everyone, therefore, should be interested in the question of strikes, and in their morality. . . . All these questions are answered very fully by Father MacLean. He discusses them in considerable detail and with proper reference to actual conditions. There is ample economic background given for the moral conclusions . . . In this

day of insistent propaganda by all sides, we ought to strive to get back to the sphere of sound principles and fearlessly apply them. Father MacLean will help us do that.—Central Blatt and Social Justice.

This is a Catholic discussion of the strike theory, and it treats the different phases of the subject in outlined chapters, so that it is easy to follow.—The St. Louis Star.

One item in the growing volume of liberal-minded Catholic literature on social problems.—The New York Nation.

The importance of this sound, moderate little book is in showing how powerful is the body of Roman Catholic opinion which has informed views on the industrial problem... The author comes to his moral judgments after prolonged study of the facts. He is interesting, progressive, even provocative on such contentious matter as picketing and the sympathetic strike.—New York Evening Post.

The views of a liberal Catholic priest upon the morality of strikes and of legislation to prohibit strikes. Valuable because it is the only book we have treating the subject from this point of view.—Wisconsin Library Bulletin.

Father MacLean's attempt to lay down a code of morals for strikers has led to some very interesting observations which give evidence of the author's sympathetic insight with respect to industrial relations. . . . The basic conclusion is that strikes are moral when they are in a just cause.—The Survey.

A brave and enlightened discussion of these delicate and often complicated problems. . . . The discussion is scholarly and complete, and as far as possible, decisive of the issues raised . . . the best book on the subject in English.—Catholic Book Notes.

The need for such a book is plain, since strikes and the disputes leading up to strikes offer a continuous and most serious problem for employees, employers, and the general public. The strike is the final weapon of the unions, and so the question touches the morality of the union itself... The advantages of the book lie chiefly in Father MacLean's knowledge of what the industrial system is and how it is now working, since the right application of moral principles to concrete cases requires a knowledge of the circumstances.—

The Catholic Charities Review.

The public may well be grateful to Father MacLean for the guidance he offers in passing judgment upon the acutest problem in present-day Industrialism—the strike. . . He tests out every phase of the actual workings of the strike, using as his norm the changeless moral principles of the Catholic Church. He proves himself a skilled moralist in the convincing and satisfying decisions he renders.—The Sign (Passionists).

Father MacLean in this book gives the most complete account of the morality of the strike published in the English language. The morality of the strike in itself, in its object and in the means employed, the morality of the sympathetic and the general strike, and the morality of State action to prevent strikes are each given a chapter. The timeliness of the book in these days of "open shop" drives and Kansas laws is beyond question. The particularly strong portions of the book are the chapters on the morality of the strike in itself, in its objects and means, and the morality of State action.—The Catholic World.

Unfortunately, neither employees nor employers have so far given sufficient attention to the ethical phase of the momentous problem, but have considered it merely a question of measuring forces without regard for right and justice. It is, therefore, of great importance that the moral aspect of the matter should be properly set forth, because only in the light of ethical orientation can a way be found, out of the present impasse. It is the merit of the book before us that is applies moral principles to the study of this question which actually bristles with moral issues. . . . The author is to be congratulated on his splendid work. He has given us a courageous book that will clarify the situation because it points out where the responsibility for our industrial difficulties really lies, and that is the first step toward a mending of conditions.—The Ecclesiastical Review.

Price, \$1.85 post paid

P. J. KENNEDY & SONS, 44 BARCLAY ST., NEW YORK.